Commissioner Of Income Tax vs Shri Gumanmal Jain on 3 March, 2017

Author: M.Sundar

Bench: Rajiv Shakdher, M.Sundar

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.03.2017
CORAM
THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER
AND
THE HONOURABLE MR. JUSTICE M.SUNDAR
T.C.A. No.33 of 2017

Commissioner of Income Tax
Non Corporate Ward 10(2)
Chennai ... Appellant

vs.

Shri Gumanmal jain
Flat No.A-2, Rain Forest
No.57, New No.26, Taylor's Road,
Rem Street, Kilpauk,
Chennai 600 010. ... Respondent

Tax Case Appeal has been filed under Section 260A of the Income Tax Act, 1961 against t

For appellant : Mr.M.Swaminathan

For respondent : Mr.O.Anandanam

JUDGMENT

(The judgement of the Court was delivered by M.SUNDAR, J.)

1.This is a statutory appeal under Section 260 A of the Income Tax Act, 1961 [hereinafter referred to

as 'IT Act' for the sake of brevity]

2.This statutory appeal under IT Act is directed against an order dated 11.05.2016 made by the Income Tax Appellate Tribunal "C" Bench Chennai [hereinafter referred to as 'ITAT' for the sake of brevity] in ITA.No.414/MDS/2016.

3.It is necessary to set out the factual matrix in a nutshell for better appreciation of our order.

4.Factual Matrix :

(i) In the instant case the assessee is an individual.

(ii) Assessee filed his return of income on 01.07.2013 for Assessment year 2012-13 declaring a total income of Rs.2,49,980/-

(iii) The case was selected for scrutiny and notice under Sections 143(2) and 142(1) of the IT Act was issued and served on the assessee.

(iv) As stated supra, the assessee is an individual and he is one Gumanmal Jain. Two sons of the assessee are Deepak Jain and Varun Jain.

(v) Assessee and his two sons own certain contiguous extents of land. Assessee and his two sons aggregated the lands and post aggregation, total extent of land available was 24,840 square feet [hereinafter referred to as 'said land' for brevity].

(vi) The assessee along with his two sons entered into a Joint Development Agreement dated 15.07.2010 with a builder to develop the said land by constructing 16 flats therein with a total built up area of 56,945 square feet. Assessee and his two sons on one hand and the builder on the other hand agreed to share in an 70:30 ratio between them.

(vii) The said land was developed. 16 Flats with separate kitchens and 37 car parks were put up.

(viii) There is no dispute that the entire said land and the superstructure are in one location/door number and the same is 'Rain Forest', Old No.57, New No.26, Taylors Road, Rems Street, Kilpauk, Chennai 600 010.

(ix) In lieu of the above said 70:30 ratio set out in the builders agreement, assessee got 9 flats and his two sons got 3 flats each. The details are as follows:

The assessee received the following flats : GUMANMAL JAIN S.No. Block No. Floor Area Square Feet A FIRST (I) B FIRST (I) A SECOND(II) B SECOND(II) C SECOND(II) B THIRD (III) C THIRD(III) B FOURTH (IV) C FOURTH (IV) TOTAL 9

FLTS 27012 The assessee Son received the following flats : DEEPAM JAIN S.No. Block No. Floor Area Square Feet B THIRD (III) A FOUTH (IV) B FOURTH (IV) TOTAL 3 FLATS The assessee Son received the following flats : VARUN JAIN S.No. Block No. Floor Area Square Feet A THIRD (III) B THIRD (III) B FOURTH (IV) TOTAL 3 FLATS

(x) As stated supra, the case of the assessee was selected for scrutiny.

(xi) Post scrutiny, the assessing officer passed an assessment order dated 25.03.2015 inter alia holding/quantifying long term capital gain of assessee at Rs.2,31,56,430/- and demand was raised. The order of the assessment officer turns on interpretation of Section 54-F of IT Act. Assessing officer proceeded on the basis that the assessee has got more than 'a residential house'.

(xii) Aggrieved, assessee preferred a statutory appeal to the Commissioner of Income-Tax (Appeals)-12, Chennai [hereinafter referred to as 'CIT' for brevity] under Section 250(6) of the IT Act.

(xiii) CIT in and by order dated 18.12.2015, allowed the appeal of the assessee. This order of CIT also turned primarily on interpretation of Section 54-F of IT Act. CIT relied on a Division Bench Judgement of our High Court in V.R.Karpagam's case [2015 373 ITR 127], which had interpreted the phrase 'a residential house' occurring in Section 54-F of IT Act.

(xiv) Aggrieved, the Income Tax Department [hereinafter referred to as 'Revenue' for the sake of brevity], preferred a statutory appeal before the ITAT being I.T.A.No.414/Mds/2016].

(xv) The above said statutory appeal of the Revenue, was dismissed by ITAT [confirming the order of CIT] by an order dated 11.05.2016, against which the instant further statutory appeal has been preferred by Revenue before us. ITAT also had relied on V.R.Karpagam's case [our Division Bench Judgement reported in [2015] 373 ITR 127].

5. DISCUSSION:

(i) As would be evident from the facts set out under the caption factual matrix supra, the entire matter turns on a very narrow and short compass.

(ii) The narrow and short compass is, interpretation of the phrase 'a residential house' occurring in Section 54-F of the IT Act.

(iii) Mr.Swaminathan, learned Standing counsel for Revenue would primarily contend that the 15 Flats [9 for the assessee and 3 flats each for his two sons] the

details of which have been set out supra will not qualify as 'a residential house' occurring in Section 54-F of the IT Act, notwithstanding the ratio of our Division Bench in V.R.Karpagam's case as according to him, the flats are in different blocks and not in the same block.

(iv) The sole and sheet anchor submission of Mr.Swaminathan, learned counsel for the Revenue is that the 15 flats/apartments of the assessee and his two sons are not located in the same block. In an attempt to buttress his submission he would state and contend that if the flats were located in the same block, assessee will get the benefit of the ratio in V.R.Karpagam's case supra, qua 'a residential house' occurring in Section 54-F of the IT Act.

(v) Besides V.R.Karpagam's case, learned counsel for Revenue would also fairly draw our attention to a judgement of a Division Bench of the Karnataka High Court in Commissioner of Income Tax, Bangalore -Vs- Smt.K.G.Rukminiamma reported in (2011) 331 ITR 211 (Karnataka) in which a Division Bench had interpreted the phrase 'a residential house' occurring in Section 54 of IT Act. Besides the above, learned counsel for revenue would also place before us a judgement reported in [2016] 74 Taxmann.com.227 (Madras) [G.Chinnadurai vs. Income Tax Officer, Income Tax Department] wherein a honourable single judge of this Court has followed the ratio laid down in V.R.Karpagam's case as well as Rukminiamma's case.

(vi) However, learned counsel for Revenue would pitch his case on a Division Bench judgement of the Panjab and Harayana High Court [Pawan Arya -Vs- Commissioner of Income Tax] reported in [2011] 11 Taxmann.com. 312 and say that the assessee in the instant case is not entitled to the benefits of Section 54-F of the IT Act.

(vii) Per contra, learned counsel for the respondent assessee contended that the order of ITAT in the instant case is correct and there is no infirmity in the same.

6.CASE LAWS :

(i) The above said four judgements in chronological order are as follows:

(a) Commissioner of Income Tax, Bangalore vs. Smt.K.G.Rukminiamma reported in (2011) 331 ITP 211 (Karnataka) [August 27, 2010].

(b) Pawan Arya -vs- Commissioner of Income Tax reported in [2011] 11 Taxmann.com. 312 [December 13, 2010].

(c) Commissioner of Income Tax -vs- V.R.Karpagam reportedx in [2015] 373 ITR 127 [18th August 2014].

(d) G.Chinnadurai -vs- Income Tax Officer, Income Tax Department reported in [2016] 74 Taxmann.com 227 (Madras) [August 29, 2016].

(ii) As all the four judgements deal with capital gains and turn an interpretation of the phrase 'a residential house' occurring in Sections 54 and 54-F of the IT Act, we do not deem it necessary to set out the facts in the above said citations in detail.

(iiii) In K.G.Rukminiamma's case [Karnataka High Court Division Bench] the relevant paragraphs are paragraphs 8 to 13 and the same reads as follows:

8. For a proper appreciation of the aforesaid contention, it is necessary to have a careful look at Section 54 of the Income Tax Act, which reads as under:

4.Profit on sale of property used for residence: (1) Subject to the provisions of sub-Section (2), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of a long-term capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head Income from house property (hereafter in this section referred to as the original asset), and the assessee has within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, a residential house, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,-

(i) .

9. A reading of the aforesaid provision makes it very clear that the property sold is referred to as original asset in the section. That original asset is described as buildings or lands appurtenant thereto and being a residential house. Therefore, it is not mere a residential house . The residential house may include buildings or lands appurtenant thereto. The stress is on the use to which the property is put to. Only when that asset was used as a residential house, which may consist of buildings or lands appurtenant thereto, the income derived from the sale of such a residential house is chargeable under the head income from house property. If the assessee has within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed a residential house, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the aforesaid provisions. In this part of the section also, the words a residential house is again used. The said residential house necessarily has to include buildings or lands appurtenant thereto. It cannot be construed as one residential house. In this context, it is useful to refer to Section 13 of the General Clauses Act, 1897, which reads as under:

> 3.Gender and number. In all Central Acts and Regulations, unless there is anything repugnant in the subject or context (1) words importing the masculine gender shall be taken to include females; and (2) words in the singular shall include the plural, and vide versa .

10.The context in which the expression a residential house is used in Section 54 makes it clear that, it was not the intention of the legislation to convey the meaning that it refers to a single residential house. If that was the intention, they would have used the word one. As in the earlier part, the words used are buildings or lands which are plural in number and that is referred to as a residential house , the original asset. An asset newly acquired after the sale of the original asset also can be buildings or lands appurtenant thereto, which also should be a residential house. Therefore the letter a in the context it is used should not be construed as meaning singular. But, being an indefinite article, the said expression should be read in consonance with the other words buildings and lands and, therefore, the singular a residential house also permits use of plural by virtue of Section 13(2) of the General Clauses Act. This is the view which is taken by this Court in the aforesaid Anand Basappa's Case in I.T.A. No. 113/2004, disposed of on 20.9.2008.

11. We, therefore, do not see any merit in the submission of the Learned Counsel for the revenue.

12. In the instant case, the facts are not in dispute. On a site measuring 30' W 110', the assessee had a residential premises. Under a joint development agreement, she gave that property to a builder for putting up flats. Under the agreement eight flats are to be put up in that property and four flats representing 48% is the share of the assessee and the remaining 52% representing another four flats is the share of the builder. So, the consideration for selling 52% of the site is four flats representing 48%. All the four flats are situate in a residential building. These four residential flats constitute a residential house for the purpose of Section 54. Profit on sale of property is used for residence. The four residential flats cannot be construed as four residential houses for the purpose of Section 54. It has to be construed only as a residential house and the assessee is entitled to the benefit accordingly.

13. In that view of the matter, the Tribunal as well as the appellate authority were justified in holding that there is no liability to pay capital gain tax as the case squarely falls under Section 54 of the Income Tax Act. Hence, we do not see any substantial question of law arising for consideration in this appeal. Accordingly, the appeal is dismissed.

(iv) In Pawan Arya's case [Division Bench of Panjab and Harayana High Court] the relevant paragraph is paragraph 4 and the same reads as follows:

> . As regards claim for exemption against acquisition of two houses under Section 54 of the Act, the same is not admissible in plain language of statute. In the judgment of Karnataka High Court in CIT v. D. Ananda Basappa [2009] 309 ITR 329 (Kar), referred to in the impugned order, exemption against purchase of two flats was allowed having regard to the finding that both the flats could be treated to be one house as both had been combined to make one residential unit. The said judgement,

thus, proceeds on a different fact situation.

(v) In V.R.Karpagam's case [Division Bench of Madras High Court] the relevant paragraphs are paragraphs 8 to 13 and they read as follows:

8. We have heard the learned Standing counsel appearing for the Revenue at length and perused the materials placed before this Court and the decision relied on by the Tribunal in the case of CIT v. Smt. K.G. Rukminiamma reported in 331 ITR 211. We find that the relevant provision is this case is Section 54F of the Income Tax Act, which reads as follows:

54F. Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house.--

(1) Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of any long-term capital asset, not being a residential house (hereafter in this section referred to as the original asset), and the assessee has, within a period of one year before two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, a residential house (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,--

(a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45:

(b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45:

Provided that nothing contained in this sub-section shall apply where

(a) the assessee,

(i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or

(ii) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset; or

(iii) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and

> (b) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head Income from house property .

9. It is relevant to note herein that an amendment was made to the above-said provision with regard to the word a by the Finance (No. 2) Act, 2014, which will come into effect from 01.04.2015. The said amendment reads as follows:

> 2a. Words constructed, one residential house in India shall be substituted for constructed, a residential house by the Finance (No. 2) Act, 2014, with effect from 01.04.2015.

10. The above-said amendment to Section 54F of the Income Tax Act, which will come into effect only from 01.04.2015, makes it very clear that the benefit of Section 54F of the Income Tax Act will be applicable to constructed, one residential house in India and that clarifies the situation in the present case, i.e, post amendment, viz., from 01.04.2015, the benefit of Section 54F will be applicable to one residential house in India. Prior to the said amendment, it is clear that a residential house would include multiple flats/residential units as in the present case where the assessee has got five residential flats. We may also mention here that all the Authorities below have clearly understood that the agreement signed by the assessee with M/s. Mount Housing Infrastructure Ltd., is that the assessee will receive 43.75% of the built-up area after development, which is construed as one block, which may be one or more flats. In that view of the matter what was before the Assessing Officer is only equivalent of 56.25% of land transferred, equivalent to 43.75% of built up area received by the assessee. This built up area got translated into five flats. Hence, we are of the opinion that the transaction in this case was not with regard to the number of flats but with regard to the percentage of the built up area, vis-a-vis, the Undivided Share of Land.

11. In similar circumstances, this Court, by order dated 04.01.2012 in T.C. (A) No. 656 of 2005 held as follows:

> The above provision refers to a residential house meaning thereby that even if there are four different flats and if it is considered for the property assessed as one unit and one door number is given, it should be construed as a residential unit, namely, one unit. In that sense, the said provision is available to the assessee.

12. In the decision reported in (2012) 75 DTR 56 (Dr. (Smt.) P.K. Vasanthi Rangarajan, this Court, while dealing with the benefit of exemption under Section 54F, followed the above-said decision of this Court in T.C. (A) No. 656 of 2005 and granted the benefit to the assessee under Section 54F of the Income Tax Act on the investment made in the four flats.

13. Hence, the above-said decisions of this Court make it clear that the property should be assessed as one unit, even though different flats are available. Here also, as per the assessment order, all the flats have one door number, namely, Door No. 29F, Race Course, Coimbatore.

(vi) In Chinnadurai's case [Honourable Single Judge of Madras High Court] the relevant paragraphs are paragraphs 14 and 15 and they read as follows:

> Thus, by applying the legal principles enunciated in the case of Smt.V.R.Karpagam (supra), Dr.Smt.P.K.Vasanthi Rangarajan (supra), and G.Saroja(supra), it is to be pointed out that the expression 'a residential house' used in Section 54, should not be taken to convey the meaning that it refers to a 'single residential house and if that was the intention of the legislature, the framers of the statute would have used the-word one instead of a . In fact, the facts of the case in Smt. V.R.Karpagam (supra), is more or less identical to that of the case on hand, which also pertained to a development of a property, originally owned by the assessee and the consideration was that the owner/assessee was to receive 43.75% of build up area after development, which translated into five flats.
>
> 15.In the instant case, there is no doubt raised by the respondent with regard to the petitioner's eligibility to claim exemption under Section 54F,but the dispute is as to whether the petitioner is entitled to claim such exemption for all the five flats or for only one flat.
>
> (vii) In our opinion, the ratio laid down by this Court in V.R.Karpagam's case directly and squarely covers the facts of the instant case and the legal issue herein. In V.R.Karpagam's case, a Division Bench of this Court has interpreted the phrase 'a residential house' occurring in Section 54-F as covering more than one flat/apartment as long as the same is in the same location/address. It is not in dispute before us that the Revenue has not carried this matter [V.R.Karpagam's case] to the Supreme Court. Therefore, V.R.Karpagam's case clearly holds the field as of today.

(viii) However, as K.G.Rukminiamma's case has been cited before us, we discuss the same. K.G.Rukminiamma's case has been relied upon by the Madras High Court in V.R.Karpagam's case, though K.G.Rukminiamma's case arose under Section 54 of IT Act while V.R.Karpagam's case is under Section 54-F of the IT Act akin to the instant case. We are also of the considered opinion that the principles/ratio in K.G.Rukminiamma's case would certainly apply to a case under Section 54-F also because a bare reading of Sections 54 and 54-F of the IT Act would reveal that the two provisions are in pari materia with regard to those aspects of provisions of law which we are concerned with in the instant case. While Section 54 deals with capital gain arising out of transfer of buildings or lands appurtenant thereto and being residential house, 54-F deals with capital gain arising out of transfer of any long term capital asset not being a residential house. Otherwise, in all other aspects of the matter the two provisions namely Section 54 and 54-F are in pari materia. Therefore, the interpretation of 'a residential house' occurring in Section 54 cannot be any different for the same phrase 'a residential house' occurring under Section 54-F of IT Act. In this regard what applies to Section 54 would apply in equal and full force to Section 54-F also. Therefore, the principles in K.G.Rukminiamma's case as well as V.R.Karpagam's case would apply to the facts of the instant case.

(ix) As set out in the discussion supra, learned counsel for Revenue, relied heavily on Pawan Arya's case which was decided by a Division Bench of the Punjab and Harayana High Court. Pawan Arya's case arises under Section 54 of IT Act. We have already opined that Section 54 and 54-F of IT Act are in pari materia. Therefore, there is no difficulty on this count, but Pawan Arya's case is clearly distinguishable on facts. A perusal of the factual matrix in Pawan Arya's case would show that the assessee who had capital gain in his hands was claiming exemption by purchasing two independent residential houses situated at two different locations, while one residential house is in Dilshed Colony, Delhi the other is in Faridabad. Therefore, in Pawan Arya's case the assessee had not purchased/acquired more than one flat/apartment in the same location/address as in K.G.Rukminiamma's case or in V.R.Karpagam's case. Punjab and Haryana High Court in Pawan Arya's case held that another judgement of Karnataka High Court which was cited before them being CIT -Vs- D.Ananda Basappa [2009] 309 ITR 329 is not applicable as in Ananda Basappa's case two flats were purchased in the same location and the two flats were merged into one by breaking the separating wall. On this basis, the Punjab and Harayana High Court held that Ananda Basappa's case did not apply to the case before it particularly on the ground that the assessee is claiming exemption in respect of two residential houses in two completely different locations one in Dilshed Colony, Delhi and the other in Faridabad. On this basis in Pawan Arya's case, Court refused to grant any relief to the assessee and held in favour of the Revenue.

(x) Therefore, we have no hesitation in concluding that Pawan Arya's case does not apply to the facts of the instant case and thus would does not help the Revenue in any manner in the instant case.

(xi) In G.Chinnadurai's case, the matter arises under Section 54-F of IT Act. In this case also, the assessee had entered into a joint development agreement with the builder and had got more than one flat towards his share in the same location/address. Learned Single Judge of this Court had applied the principles in V.R.Karpagam's case and held in favour of the assessee.

(xii) As mentioned supra, it was submitted before us that V.R.Karpagam's case was not carried to the Supreme Court by the Revenue. It is now not in dispute that K.G.Rukminiamma's case was also not carried to the Supreme Court by the Revenue. We notice that Pawan Arya's case also has not been carried to the Supreme Court by the assessee.

(xiii) Therefore, we find ourselves persuaded to follow V.R.Karpagam's case for two reasons and they are as follows:

> (a) V.R.Karpagam's case has been rendered by a coordinate Division Bench of this Court.
>
> (b) V.R.Karpagam's case has not been carried by Revenue to the Supreme Court and therefore is holding the field as on today.
>
> (xiv) We are informed that there is no intra court appeal in G.Chinnadurai's case also. In other words Revenue has accepted G.Chinnadurai's case is what we are given to understand.

(xv) To make our discussion on case law as complete and as comprehensive as possible, we deem it relevant to also mention that the all too important phrase 'a residential house' occurring in Section 54-F was amended with effect from 01.04.2015. Such amendment was brought in by the Finance (No.2) Act, 2014 and post amendment, 'a residential house' now reads as 'one residential house'. We have noticed that this amendment is only with effect from 01.04.2015 and the case on hand pertains to assessment year 2012-2013. Therefore, this amendment does not in any manner impact the instant case. However, we make it clear that we have noticed this amendment. It is also to be borne in mind that the other coordinate Division Bench of this Court has also noticed this amendment in V.R.Karpagam's case and thereafter laid down the principles/ratio.

7. CONCLUSION:

(i) We therefore have no hesitation in holding that in the instant case the assessee having got 15 flats along with his two sons will not disentitle him from getting the benefit under Section 54-F of the IT Act only on the ground that all the 15 flats are not in the same Block, particularly in the light of the admitted factual position that all the 15 flats are located at the same address namely, 'Rain Forest' No.57, New No.36, Taylor's Road, Rem Street, Kilpauk, Chennai 600 010.

(ii) As a sequitur, we are unable to persuade ourselves that the 15 flats, even if they are located in different blocks would not disentitle the assessee from getting the benefit of Section 54-F of IT Act.

(iii) We have no hesitation in holding that the order of ITAT which has been called in question before us is correct, there is no infirmity in the said order, does not call for any interference and we are of the view that the said order deserves to be confirmed.

(iv) We also noticed that in all the judgements, irrespective of whether it is under Section 54 or 54-F of IT Act, which we have discussed supra, the judgements have proceeded only on the basis that the flats [being more than one flat] are in the same location/address. Therefore, once it is in the same location/address, the question of whether it is in the same block or in different blocks does not arise for consideration. To our mind, as long as all the flats are in the same address/location even if they are located in separate blocks or towers it does not alter the position. In the instant case, after all, all the flats are a product of one development agreement of the same piece of land being said land. Therefore, we make it abundantly clear that even if flats/apartments are in different blocks and different towers as long as they are in same address/location it does not disentitle the assessee from getting the benefit of Section 54-F of IT Act.

(v) Therefore, the sole and sheet anchor submission of counsel for Revenue that the 15 flats in the instant case are located in the different blocks does not impress us. We

are unable to persuade ourselves that this will disentitle the assessee from getting the benefit of Section 54-F as all the flats are in the same location/address and all flats are by products of one development agreement with the same builder.

(vi) The logic behind our view is that the assessee, irrespective of whether it is one flat or many flats, gets proportionate undivided share in land only for the same piece of land. Therefore, assessee does not buy more than one property in that sense of the matter. Flats, apartments are completely based on co-ownership.

(vii) Owing to all that have been stated supra, we conclude that the assessee is entitled to the benefit of Section 54-F of IT Act.

8. DECISION:

(i) This appeal was taken up at the pre-admission stage. No substantial question of law arises and therefore none was framed and the appeal was not admitted. Only pre-admission notice was issued.

(ii) The appeal before us preferred by the Revenue is dismissed confirming the order of ITAT dated 11.05.2016 made in ITAT No.414/Mds/2016, in turn confirming the order dated 18.12.2015 made by CIT in ITA No.10/12-13/CIT(A)-12 in exercise of appellate jurisdiction, setting aside the assessment order dated 25.03.2015 made by the Assessing Officer.

(iii) Appeal dismissed.

(iv) Considering the facts of the case and the trajectory of the proceedings, parties are left of bear their respective costs.

(R.S.A.,J) (M.S.,J)

03.03.2017

Index : Yes/No
smi

RAJIV SHAKDHER, J.

AND

M.SUNDAR, J.

DATED: 03.03.2017