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% 25.11.2009

Present: Ms. Sonia Mathur, Adv. for the Appellant.

+ ITA No. 1205/2009 & CM 16227-16228/2009
ITA No. 1278/2009 & CM 17010-17011/2009

(Common Order)

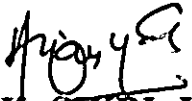
* The assessee was served with notice under Section 148 of the Income Tax Act and pursuant thereto fresh assessment orders were passed. The Tribunal has, by common judgment, held that notice and proceedings under Section 147 and 148 were illegal. Even on merits the additions made by the Assessing Officer have been deleted following its order in respect of same assessee qua subsequent assessment years. The earlier order passed by the Tribunal is since been upheld by this Court as the appeal of the Revenue was dismissed.

In view thereof, as far as ITA 1278/2009 is concerned, which arises out of the orders of the ITAT whereby AO's order is set aside on merits, is hereby dismissed as covered by the earlier orders of this Court in ITA 513/2009.

As the appeal is dismissed on merits itself, it is not necessary to go into the validity of reopening of the proceedings under Section 147 ad 148 of the Act and, therefore, ITA 1205/2009 is also dismissed.



It is made clear that in case order passed
ITA 513/2009 is challenged by the Revenue and the Supreme
Court reverses that order on the merits of the assessment, it
would be open to the appellant to seek revival of these appeals.


A.K. SIKRI, J.


SIDDHARTH MRIDUL, J.

NOVEMBER 25, 2009

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