



% 24.01.2011

Present: Mr. Ajay Vohra with Ms. Somn Shukla, Advocates for the assessee.
Mr. Sanjeev Sabharwal, Sr. Revenue/respondent.

+ ITA Nos.1040, 1041/2009

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The only issue raised in these appeals is whether the assessee is running permanent establishment in India. We find that all the Authorities below, on the facts, have arrived at the finding of fact that the assessee is running permanent establishment in India.

However, limited grievance of the appellants is that even when the Income Tax Officer has accepted that the income chargeable to tax is the income earned in India, in Para 6 of the order, the Assessing Officer sent the matter back to the Assessing Officer for reconsideration of apportionment of the expenses. Para 6

“6. Apropos the other issue of expenditure of profits of PE, we accept the contention of the assessee that the issue is covered in its order. The Tribunal gave above decision in that year. Looking at the facts, Indian travelers in terms of expenses is not known, such expenditure cannot be allowed. In view thereof, we are inclined to



about estimate of taxability o
file of Assessing Officer to cor
and above ITAT and High Co
the same afresh in accordan
observations after giving
opportunity of being heard.”

It is not in dispute that as per the
the case of **Director of Income Tax Vs. Ga**
[224 CTR 251], the income to the extent o
India is be charged to tax. This income is s
expenditure. We clarify that it is that exper
has referred to and not the issue of 15% char

With the aforesaid clarificatio
disposed of.

JANUARY 24, 2011

pmc