

**IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN**

BENCH AT JAIPUR

D.B.INCOME TAX APPEAL NO. 95 / 2015

PRINCIPAL COMMISSIONER OF I T(CENTRAL)

----Appellant

Versus

M/S ASHIANA ISPAT LTD

----Respondent

Connected With

D.B.INCOME TAX APPEAL No. 89 / 2015

PRINCIPAL COMMISSIONER OF I T(CENTRAL)

----Appellant

Versus

M/S ASHIANA ISPAT LTD

----Respondent

D.B.INCOME TAX APPEAL No. 91 / 2015

PRINCIPAL COMMISSIONER OF I T(CENTRAL)

----Appellant

Versus

M/S ASHIANA ISPAT LTD

----Respondent

D.B.INCOME TAX APPEAL No. 93 / 2015

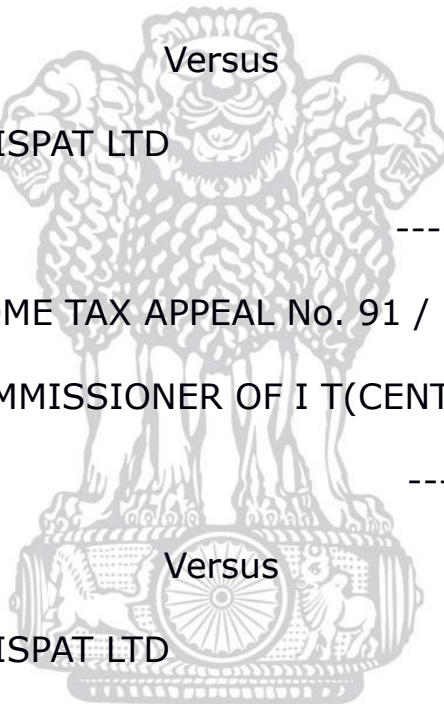
PRINCIPAL COMMISSIONER OF I T(CENTRAL)

----Appellant

Versus

M/S ASHIANA ISPAT LTD

----Respondent



D.B.INCOME TAX APPEAL No. 94 / 2015

PRINCIPAL COMMISSIONER OF I T(CENTRAL)

----Appellant

Versus

M/S ASHIANA ISPAT LTD

----Respondent

D.B.INCOME TAX APPEAL No. 73 / 2016

PRINCIPAL COMMISSIONER OF I T ALWAR

----Appellant

Versus

M/S ASHIANA ISPAT LTD BHIWADI (ALWAR)

----Respondent



For Appellant : Mr. Anil Mehta, Mrs. Parinitoo Jain

For Respondents : Vivek Dangi

HON'BLE MR. JUSTICE K.S.JHAVERI

HON'BLE MR. JUSTICE DINESH MEHTA

Judgment

Per Hon'ble Mr. Jhaveri, J.

29/11/2016

1. By way of these appeals, the department has assailed the judgment & order of the Tribunal whereby the Tribunal has allowed the appeal preferred by the assessee and dismissed the appeal preferred by the department.

2. All these appeals involved common questions of

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law and facts, hence, are decided by this common judgment. However, the facts of Income Tax Appeal No. 95/2015 are taken up for consideration.

3. The assessee is engaged in the business manufacturing and trading of TMT Bars and MS

Ingots. The assessee filed return of income on 27/9/2010 and a notice u/s 143(2) was issued for carrying out scrutiny assessment. It was found by the Assessing Officer that the assessee had claimed expenses under the head brokerage and commission

for Rs. 95,44,810/-. The assessee did not produce

any commission agent for examination but it filed a copy of agreement with broker and their ledger accounts, names and addresses. Again the Assessing

Officer required the assessee to produce the person to whom commission was paid but the assessee

communicated that commission was paid on the sales

to the associate concerns like RMIL. After examination of details it was found by the Assessing Officer that

the one's to whom such commission payment was made, the respective accounts of the broker were

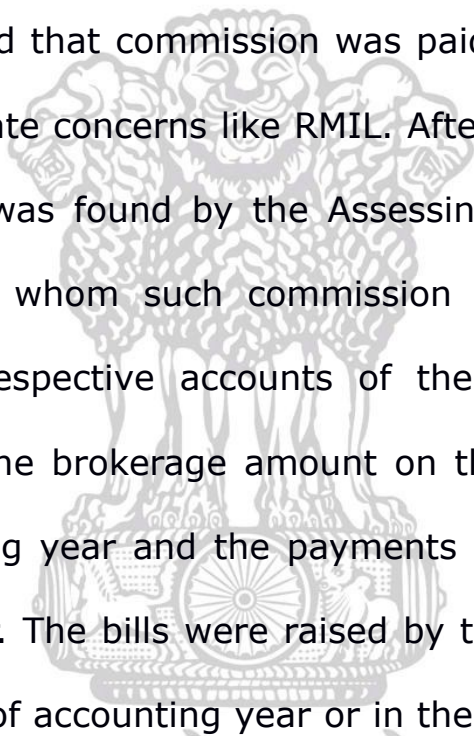
credited by the brokerage amount on the last day of the accounting year and the payments were made in

the next year. The bills were raised by the brokers on the first day of accounting year or in the last month of

the accounting year. On the sale bill name of the



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broker was not appearing, also commission was paid to some ladies who were the relatives/ wives of brokers. Hence, considering the fact regarding payment of commission, it was held that no services were rendered by the brokers to warrant any commission so the payment made could not be proved to have been expended for the purpose of business of the assessee and hence the commission paid for Rs. 95,44,810/- was disallowed by the Assessing Officer vide order dated 31/3/2013.



4. Counsel for the appellant contended that the brokerage & commission which was paid by the appellant for the same year was not held to be genuine transaction therefore, AO added the said amount in assessee's income. CIT(A) has partly allowed the appeal and has not allowed some of the deduction of commission & brokerage paid.

5. Taking into consideration the details which were furnished regarding copy of agreement, confirmations and deduction of TDS, the recipient had PAN numbers and assessee has established they have rendered services to provide the customers and payment was made by cheque, in our view, the view taken by the Tribunal is just and proper. No substantial question of law arises in these appeal.

6. The appeals are devoid of merit and deserve to

be dismissed. The same are dismissed

A copy of this order be placed in each file.

(DINESH MEHTA)J.

(K.S.JHAVERI)J.



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