

IN THE HIGH COURT OF KERALA AT ERNAKULAM

ITA.No. 202 of 2009()

1. THE COMMISSIONER OF INCOME TAX,  
... Petitioner

Vs

1. M/S.C.C.VARGHESE & CO,  
... Respondent

For Petitioner :SRI.JOSE JOSEPH, SC, FOR INCOME TAX

For Respondent : No Appearance

The Hon'ble MR. Justice C.N.RAMACHANDRAN NAIR  
The Hon'ble MR. Justice B.P.RAY

Dated :12/11/2010

O R D E R

C.N.RAMACHANDRAN NAIR & BHABANI PRASAD RAY, JJ.

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ITA Nos.202 & 206 of 2009  
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Dated, this the 12th day of November, 2010

J U D G M E N T

Ramachandran Nair, J.

Even though notice was served, there is no appearance on  
behalf of the respondent assessee.

2. However, after hearing learned counsel for the Revenue,  
we do not find any merit in these appeals filed by the Revenue  
because without making regular assessment under Section 143(3),  
the Department reopened the assessment under Section 148 merely

because income returned by the assessee is less than the income assessable under Section 44AE of the Income Tax Act. The first appellate authority held that Section 44AE has no application unless the Department proves that the assessee's accounts are not correct and complete. This order of the CIT (Appeals) is confirmed by the Tribunal.

We do not find any ground to interfere with the orders of the Tribunal. Consequently, these appeals are dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE)

(BHABANI PRASAD RAY, JUDGE)

