IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 43/2015

M/s. Chowgule & Company Pvt. Ltd.,
Chowgule House, Mormugao Harbour,
Goa.
…….. Appellant.

V/s.

1. Assistant Commissioner of Income Tax,
Circle 2, Margao, Goa.

2. Union of India,
through the Secretary (Revenue),
Ministry of Finance,
North Block, New Delhi. ……... Respondents.

Mr. Mihir Naniwadekar, and Mr. Purushottam R. Karpe, Advocates for the appellant.

Ms. Asha Desai, Advocate for the respondents.

CORAM :- F.M. REIS &
K.L. WADANE, JJ.

Date : - 7th October, 2015.

ORAL JUDGMENT : (PER F.M. REIS, J.)

Heard Mr. Mihir Naniwadekar, learned Counsel appearing for the appellant and Ms. Asha Desai, learned Counsel appearing for the respondents.

2. Admit, on the following substantial question of law :

> Whether the order passed by the learned Income Tax Appellate Tribunal dated 15/1/2015, stands vitiated for non-consideration of the grounds raised by the appellant in the cross objections dated 10/10/2014 ?

3. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the respondents waives notice.

4. Learned Counsel appearing for the appellant has pointed out that in the cross objection filed by the appellant dated 10/10/2014 there were specific jurisdictional grounds raised by the appellant, *inter alia,* disputing the exercise carried out by the respondents to reopen the assessment in respect of the Assessment Year 2004-05. The learned Counsel appearing for the appellant has taken us through the impugned order passed by the learned Tribunal to point out that these contentions have not at all been addressed by the learned Tribunal whilst disposing of the appeal preferred by the respondents/Revenue. The learned Counsel appearing for the respondents herein has fairly accepted the said position that these grounds were raised, but not considered by the learned Tribunal whilst disposing of the appeal

preferred by the Revenue.

5. Having heard the learned Counsel, we find that on this ground alone, the impugned order passed by the leaned Tribunal stands vitiated and deserves to be quashed and set aside and the matter needs to be remanded to the learned Tribunal to decide the appeal preferred by the respondents, afresh, after hearing the parties and dealing with the cross objections filed by the appellant herein, in accordance with law.

6. In view of the above, we pass the following Order :

(I) The impugned Order dated 15th January, 2015, passed by the Income Tax Appellate Tribunal, Panaji is quashed and set aside.

(II) Appeal No. ITA NO.288/PNJ/2014 is restored to the file of the learned Tribunal.

(III) The learned Tribunal shall decide the appeal afresh in the light of the observations made herein above, in accordance with law.

(IV) All the contentions of the parties, on merits, are left open.

(V) The appeal stands disposed of accordingly.

K.L. WADANE, J. **F.M. REIS, J.**

ssm.