IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO.3 OF 2010

The Commissioner of Income Tax,
Having office at Aayakar Bhavan,
Patto-Plaza, Panaji-Goa. …. Appellant

V/s

M/s. Chowgule & Company Ltd.,
Having office at Chowgule House,
Marmugao-Harbour,
Marmugao, Goa. …. Respondent

Ms. Asha Desai, Advocate for the Appellant.
Mr. Mihir Naniwadekar with Ms. Vinita Palyekar, Advocate for the Respondent.

Coram:- **MOHIT S. SHAH, C.J. &**
SMT. ANUJA PRABHUDESSAI, J.

Date:- **20th August, 2015**

ORAL JUDGMENT : (Per Mohit S. Shah, C.J.)

This is an appeal under Section 260-A of the Income Tax Act, 1961 challenging the order dated 8/04/2009 of the Income Tax Appellate Tribunal, Panaji Bench. The relevant Assessment Year is 2004-05.

2. By order dated 16/02/2010, the appeal was admitted on the following substantial question of law:

> A) Whether on the facts and in the circumstances of the case, the ITAT is right in law in directing the AO to consider receipts by way of income from barge hire, machinery hire, ore processing, transhipper loader charges, and miscellaneous income as

> operational income treating the same as eligible business profits for the purpose of computing the deduction u/s 80 HHC of the Act?

3. By a separate judgment delivered today in Tax Appeals No.6 and 7 of 2008 of this very Assessee, we have remanded the matter to the Assessing Officer to consider the above question in the light of the judgment dated 7/05/2015 of this Court in ***Sesa Goa Ltd. V/s. The Commissioner of Income Tax*** in ***Tax Appeal No.53/2006***. Following the said judgment, we remand this matter also to the Assessing Officer for deciding the question in the light of the aforesaid judgment of this Court. Tax Appeal accordingly stands disposed of.

SMT. ANUJA PRABHUDESSAI, J. **MOHIT S. SHAH, C.J.**

NH/-