IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO.10 OF 2008

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.)

Not on Board. Upon mentioning, taken up on Board as the other appeals of the Revenue against the same Assessee have been decided today.

2. This appeal under Section 260-A of the Income Tax Act, 1961 challenges the order dated 12/07/2007 of the Income Tax Appellate Tribunal, Panaji Bench. The relevant Assessment Year is 2001-02.

3. By order dated 3/03/2008, the appeal was admitted on the following substantial questions of law:

(A) Whether on the facts and in the circumstances of the case, the ITAT was justified in deleting the exclusion made by the AO in respect of amount received towards uptopping vessel income, machinery hire income, barge management expenses, being not having any nexus with the export activity of the assessee under clause (baa) of Explanation to the purpose of determining profits of the business u/s 80HHC ?

(B) Whether on the facts and in the circumstances of the case, the ITAT was justified in deleting the exclusion made by the AO in respect of amount received towards miscellaneous income, sale of scrap, service charges, grant-in-aid for medical expenses, recovery of fuel, group insurance, deptch money, being not having any nexus with the export activity of the assessee under clause (baa) of Explanation for the purpose of determining profits of the business u/s 80HHC ?

4. 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/-