IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

I.T.A.No. 19 of 2013

AGAINST THE ORDER IN ITA 513/2009 of I.T.A.TRIBUNAL,COCHIN BENCH DATED 25-05-2012

APPELLANT/APPELLANT/APPELLANT:

OLAM EXPORTS (INDIA) LTD.
NOW OLAM AGRO INDIA LTD, BISHOP JEROME NAGAR
KOLLAM (PAN: AAACO2040D).

BY ADVS.SRI.V.ABRAHAM MARKOS
SRI.MATHEWS K.UTHUPPACHAN
SRI.BINU MATHEW
SRI.TERRY V.JAMES
SRI.B.J.JOHN PRAKASH
SRI.TOM THOMAS (KAKKUZHIYIL)

RESPONDENT/RESPONDENT:

THE ASSISTANT COMMISSIONER OF INCOME-TAX
CIRCLE - I, KOLLAM - 691 001.

R1 BY ADV. SRI.P.K.R.MENON, SR. COUNSEL, GOI (TAXES)
R1 BY ADV. SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD ON 28-05-2015, ALONG WITH ITA. 45/2013, ITA. 129/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: TRUE COPY OF REVISED ASSESSMENT ORDER DATED 12.11.2007 PASSED BY THE ASSESSING OFFICER.

ANNEXURE B: TRUE COPY OF APPELLATE ORDER DATED 4.2.2009 PASSED BY THE COMMISSIONER OF INCOME TAX (APPEALS) II, KOCHI.

ANNEXURE C: TRUE COPY OF SECOND APPEAL DATED 16.9.2009 FILED BY THE APPELLANT BEFORE THE INCOME TAX APPELLATE TRIBUNAL, KOCHI.

ANNEXURE D: TRUE COPY OF ARGUMENT NOTE DATED 14.6.2011 FILED BY THE APPELLANT'S REPRESETATIVE BEFORE THE INCOME TAX APPELLATE TRIBUNAL, KOCHI.

ANNEXURE E: CERTIFIED COPY OF IMPUGNED ORDER DATED 25.5.2012 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, KOCHI IN ITA NO.513/COCH/2009.

// TRUE COPY //

P.A. TO JUDGE

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

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I.T.A. Nos.19, 45 & 129 of 2013

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Dated this the 28th day of May, 2015

JUDGMENT

Antony Dominic, J.

These appeals are filed against the orders of the Income Tax Appellate Tribunal, Cochin Bench in I.T.A.Nos.513, 515 and 516 of 2009 pertaining to the assessment years 2000-2001, 2001-2002 and 2002-2003. By the common order impugned, the Tribunal has remanded the matter to the Assessing Officer for fresh consideration.

2. Grievance of the appellant is that though in respect of the orders under Section 148 of the Income Tax Act which were impugned before the Tribunal they had raised the question of limitation, that was not considered by the Tribunal while passing the common order. According to counsel, therefore, the order impugned needs to be interfered with.

3. However, learned Standing Counsel for the Revenue brought to our notice that the issue of limitation is not specifically raised in the grounds of appeal before the Tribunal and that therefore cannot give rise

to a question of law to be considered in this appeal filed under Section 260A of the Act.

4. We have considered the submissions made. Although it is true that the question of limitation has not been specifically raised in the grounds of appeal, we find from Annexure D, the argument note submitted by the appellant before the Tribunal, that the question of limitation has been specifically raised. However, the order impugned show that such a question has not been considered by the Tribunal. In such circumstances, we are not impressed by the argument of the learned Standing Counsel for the Revenue that the question of limitation cannot give rise to question of law to be considered in this appeal.

5. Though it is true that the issue of limitation was not considered by the Tribunal and in that sense the order is vitiated, still having regard to the fact that the matter is remitted by the Tribunal to the Assessing Officer for fresh consideration, we feel that the grievance of the appellant will be redressed if the Assessing Officer

considers the issue of limitation also while reconsidering the matter in pursuance to the order of the Tribunal.

6. In such circumstances, we dispose of these appeals directing the Assessing Officer to consider the issue of limitation also when the assessment in respect of the assessment years mentioned above are reconsidered in pursuance to the order of the Tribunal which is impugned herein.

Appeals are disposed of accordingly.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

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