THE HON'BLE SRI JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

I.T.T.A No.122 of 2004

JUDGMENT: (Per Hon'ble Sri Justice Dilip B. Bhosale)

Heard the learned Counsel for the parties.

Learned Counsel for the respondent, at the outset, invited our attention to the judgment of the Supreme Court in **C.I.T., Rajkot v. Digvijay Cement Co. Ltd.** and the judgment of the Madras High Court in **Commissioner of Income Tax v. Essar Bulk Carriers Ltd.** (decided on 07.11.2001), and submitted that the substantial question of law, as framed in the memorandum of appeal, is squarely covered by these judgments.

We have perused the judgments of the Supreme Court and the Madras High Court and we find that the question, as framed in the instant appeal, is covered by these judgments. Learned Counsel for the Revenue also does not dispute the submission made by learned Counsel for the respondent – assessee and fairly states that the question raised in the instant appeal be answered in favour of the assessee.

In the circumstances, the substantial question of law, as framed in the instant appeal, is answered against the Revenue and in favour of the assessee, as the same is squarely covered by the aforementioned judgments of the Supreme Court and the Madras High Court.

The appeal is, accordingly, dismissed. The miscellaneous petitions, if any, stand disposed of. No costs.

(DILIP B. BHOSALE, J)

(A.RAMALINGESWARA RAO, J)

07.04.2015

vs

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