IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 2789 OF 2009
WITH
INCOME TAX APPEAL NO.101 2010

Director of Income Tax
(International Taxation), Mumbai ... Appellant
v/s
Argoma N.V.,
Mumbai 400 021 ... Respondent

Mr Suresh Kumar for Appellant.
None for Respondent.

CORAM : M.S. SANKLECHA AND
B.P. COLABAWALLA JJ.
DATE : 27th JANUARY, 2016

P.C.:-

1. Both these Appeals under section 260A of the Income Tax Act 1961 (the Act) assail the common order dated 9th November 2007 passed by the Tribunal in respect of AYs 1998-99, 1999-2000 and 2000-01. The two Appeals before us relate to AYs 1998-99 and 1999-2000.

2. The Revenue has formulated the following common questions of law in both the Appeals for our consideration :-

> "(A) Whether on the facts and in the circumstances of the case and in law the ITAT was justified in setting aside the matter to the file of the Assessing Officer after agreeing with the findings that the main purpose of transfer of the dredger was to claim depreciation with reference to the enhanced cost?"
>
> (B) Whether on the facts and in the circumstances of the case and in law and considering the provisions of explanation '3' to section 43(1) of the Act, the ITAT was justified in setting aside the matter to the file of the Assessing Officer for determination of the market value of the dredger ?"

3. Mr Suresh Kumar, learned counsel for the Revenue, very fairly states that the common impugned order dated 9th November 2006 of the Tribunal also dealt with AY 2000-01. The Revenue had preferred an Appeal against the impugned order in so far as it related to AY 2000-01 being Income Tax appeal No.434 of 2010. The said appeal was not entertained by this Court as it did not give rise to any substantial question of law. Therefore, by our order dated 19th January 2016 we dismissed the Revenue's Appeal for AY 2000-01 being Income Tax Appeal No.434 of 2010.

4. Therefore, for the reasons indicated in our above order dated 19th January 2016, the questions as proposed in these Appeals also do not give rise to any substantial question of law. Thus not entertained.

5. Accordingly, both Appeals are dismissed. No order as to costs.

(B.P.COLABAWALLA, J.) **(M.S. SANKLECHA, J.)**