IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO. 773 OF 2014

Director of Income Tax (IT)-I .. Appellant
v/s.
M/s. Safmarine Container Lines NV
Mumbai .. Respondent

Mr. Tejveer Singh for the appellant
Mr. P.F. Kaka, Senior Counsel a/w Mr. Manish Kanth i/b Atul K. Jasani for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.
DATED : 15th NOVEMBER, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 19th September, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2009-10.

2. The Revenue urges only the following question of law for our consideration :-

> *"Whether on the facts and in the circumstances of the case and in law, the Tribunal was correct in holding that income from Inland Haulage Charges is incidental and closely connected with the direct operations of ship and hence not liable to tax in India in terms of Article 8 of the Indo-Belgium DTAA?*

3. The impugned order of the Tribunal dismissed the Revenue's appeal before it holding that the assessee's income from Inland Haulage charges is directly connected to the shipping income and, therefore, not chargeable to tax under Article 8 of the Double Tax Avoidance Agreement (DTAA). The impugned order of the Tribunal has followed its decision in the respondent assessee's own case for the Assessment Year 2001-02, which has been upheld by this Court's order dated 17th January, 2013 in Income Tax Appeal No.952 of 2011.

4. Mr. Tejveer Singh, learned Counsel for the Revenue very fairly states that the same issue was also the subject matter for consideration for the Assessment Year 2006-07 in the Revenue's appeal in respect of the same respondent assessee being Income Tax Appeal No.410 of 2012 before this Court. By order dated 17th July, 2014, this Court dismissed the Revenue's above appeal on identical issue. Therefore, for the reasons spelt out in our order dated 17th July, 2014 (Income Tax Appeal No.410 of 2012), the question as formulated does not give rise to any substantial question of law.

5. In view of the admitted position that issue as raised is concluded by the decisions of this Court, the question as framed does not give rise

to any substantial question of law. Thus, not entertained.

6. Accordingly, the appeal is dismissed. No order as to costs.

(A.K. MENON, J.) **(M.S. SANKLECHA, J.)**