IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 223 OF 2016
WITH
INCOME TAX APPEAL NO. 276 OF 2016
WITH
INCOME TAX APPEAL NO. 531 OF 2016
WITH
INCOME TAX APPEAL NO. 621 OF 2016
WITH
INCOME TAX APPEAL NO. 637 OF 2016
WITH
INCOME TAX APPEAL NO. 644 OF 2016
WITH
INCOME TAX APPEAL NO. 966 OF 2016

Commissioner of Income Tax-2 .. Appellant

v/s.

M/s. DHL Operation BV The Netherland ..Respondent

Mr. Suresh Kumar for the appellant
Mr. Madhur Agarwal a/w Ms. Divyasha Mathur I/b PDS Legal for the respondent

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.

DATED : 18th JULY, 2018.

P.C.

1. These seven appeals under Section 260A of the Income Tax Act, 1961 (the Act) challenge the common order dated 8th May 2015 of the Income Tax Appellate Tribunal (the Tribunal). These appeals relate to

Assessment Years 2000-01 to 2006-07.

2. The Revenue has urged only the following identical question of law in all the appeals for our consideration :-

> *Whether on the facts and in the circumstances of the case and in law, the Tribunal has erred in deleting the penalty u/s 271(1)(c) of the Act without appreciating the fact that the assessee has furnished inaccurate particulars of income in the return of income (by not disclosing Royalty, FTS and business income) and thus concealed income?*

3. Mr. Suresh Kumar, learned Counsel appearing in support of the appeal very fairly invites our attention to the impugned order of the Tribunal to point out that it followed *inter alia* the order of its co-ordinate bench for Assessment Year 1990-91 while dismissing the Revenue's appeal. The Revenue had preferred an appeal to this Court from the order of its co-ordinate bench for Assessment Year 1990-91 being the *Director of Income-Tax (International Taxation) Vs. M/s. DHL Operations BV, Netherland* (Income Tax Appeal (L) No.2320 of 2010). This Court by order dated 6th July 2011 following the decision of the Apex Court in ***Commissioner of Income Tax Vs. Reliance Petroproducts Ltd. 189 Taxman 322*** held that the claim was bonafide

and allowable. Thus, penalty under Section 271(1)(c) of the Act was justified. The impugned order of the Tribunal has placed reliance upon the order dated 6th July 2011 passed by this Court to dismiss the appeals. It holds that the issue is one of interpretation and penalty is not justified.

4. Mr. Suresh Kumar is not able to point out any distinguishing features in facts and / or in law in subject assessment years to that existing for Assessment Year 1990-91 to warrant a different view.

5. In view of the above, the question as proposed does not give rise to any substantial question of law. Thus, the appeals are not entertained.

6. Accordingly, all the seven appeals are dismissed. No order as to costs.

(SANDEEP K. SHINDE J.) **(M.S. SANKLECHA, J.)**