IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NOS. 22 OF 2007, 7 OF 2009, 81 & 82 OF 2008

V. S. Dempo & Co. Pvt. Ltd. …. Appellant

Versus

The Assistant Commissioner of Income Tax …. Respondent

Mr. Mihir Naniwadekar and Ms. V. Palyekar, Advocates for the Appellant.

Ms. S. Linhares, Advocate for the Respondent.

Coram : R. D. Dhanuka &
Prithviraj K. Chavan, JJ.

Date : 2nd April, 2019

P.C.

At the request of the learned counsel for the Appellant, the papers were allowed to be produced at 2.30 p.m.

2. All these appeals were admitted on the following substantial question of law.

"Whether on the facts and in the circumstances of the case and on fair and proper interpretation of Section 80HHC and in particular clause (baa) of the Explanation, the Appellate Tribunal was right in law in excluding the following items admittedly constituting part of business profit in computing the "profits of business", on the ground that they have no nexus to the export activities, ignoring the specific wording of the Section as amended from 01.04.1992: a) Leasing Income; b) Income from Bills Discounting; c) Income from Transfer Vessel; d) Barge Freight; e) Construction Receipts; f) Stevedoring Income; g) Travel Agency Business."

3. The learned counsel for the Appellant fairly drew our attention to the judgment of this Court delivered on 7th May, 2015 in the case of ***Sesa Goa Ltd. Vs The Commissioner of Income Tax*** in Tax Appeal No.53 of 2006 and the order dated 7th September, 2015 in the case of ***V. S. Dempo and Co. Pvt. Ltd. Vs The Assistant Commissioner of Income Tax*** in Income Tax Appeal No.936 of 2015 and would submit that the substantial question of law formulated by this Court while admitting these appeals is decided against the assessee in both these judgment/order.

4. The statement made by the learned counsel for the

Appellant is accepted. In view of the judgment of this Court dated 7th May, 2015 in the case of ***Sesa Goa Ltd.*** (supra) and the order dated 7th September, 2015 in the case of ***V. S. Dempo and Co. Pvt. Ltd.*** (supra), following the judgment of this Court in the case of ***Sesa Goa Ltd. Vs The Commissioner of Income Tax*** in Tax Appeal No.53 of 2006, the substantial question of law framed by this Court is answered in affirmative, against the assessee and in favour of revenue. These appeals are disposed of on the aforesaid terms. No order as to costs.

Prithviraj K. Chavan, J. ***R. D. Dhanuka, J.***

at*