IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

T.C.A. Nos.110 & 111 of 2013

Commissioner of Income tax,
Chennai .. Appellant in both appeals

vs

M/s.Poompuhar Shipping Corporation Ltd.,
C/o M/s Subbaraya Aiyar Pdmanabhan & Ramamai Advocates,
New No.75 A, Old No. 105 A,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 4
PAN : AAACP4383J .. Respondent in both appeals

Prayer in TCA.No. 110 of 2013 : Appeal filed under Section 260A of the Income-Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'B' Bench, dated 05.07.2012 in I.T.A.No.2063/Mds/2011.

Prayer in TCA.No. 111 of 2013 : Appeal filed under Section 260A of the Income-Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'B' Bench, dated 05.07.2012 in I.T.A.No.2064/Mds/2011.

(In both TCAs)

For Appellant	:	Ms.V.Pushpa Senior Standing Counsel
For Respondent	:	Mr.Vikram Vijayaraghavan for M/s.Subbaraya Aiyar Padmanabhan

COMMON JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

The questions arising for determination in these cases had been admitted on 16.04.2013 as follows:

> *'1.Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the hire charges paid by the assessee to foreign shipping companies is an allowable deduction even though tax has not been deducted, relying on the decision of the Special Bench in the case of Merilyn Shipping and Transports Vs. ACIT (136 ITD 23 (SB)*

(Viz)), which had not attained finality?

2. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was correct in holding that the disallowance under Section 40(a)(i) would be applicable only with respect to the amounts which remain payable as on the last date of the previous year relevant to the assessment year and not in respect of payments which are made before the last date, following the decision of the special bench in the case of Merilyn Shipping and Transports Vs. ACIT (136 ITD 23 (SB) (Viz)), which has not attained finality?

3. Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in not following its earlier decisions in its own case reported in 109 ITD 226 and in the case of West Asia Maritime Limited 297 ITR 202 (AT-Chen) wherein it was held that the remittances were in the nature of royalty, but relying on its decision in the assessee's case in ITA Nos. 145 to 148/mds/2012 which held that hire of ship is in the nature of service?"

2.Both Ms.V.Pushpa, learned Senior Standing Counsel for the appellant and Mr.Vikram Vijayaraghavan, learned counsel for the respondent would submit that in the assessee's appeal relating to penalty and interest under Sections 201 and 201(i)(a) of the Income Tax Act, 1961 for the same years, the matters travelled to the Hon'ble Supreme

Court where they were closed, recording settlement of the demands under the Vivad se Vishwas Scheme, 2020.

3.Hence, the present appeals where the questions relate to disallowance under Section 40(a)(i) of the Act, of the same amounts, for the same years, are rendered infructuous. The Appeals are hence closed returning the questions unanswered. No costs.

[A.S.M, J.] [M.S.K, J.]
09.12.2025

Index:Yes/No
Neutral Citation:Yes
Speaking order
vs

To
The Income Tax Appellate Tribunal 'B' Bench,
Chennai.

DR. ANITA SUMANTH,J.
and
MUMMINENI SUDHEER KUMAR,J.

vs

T.C.A. Nos. 110 & 111 of 2013

09.12.2025