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

INCOME TAX APPEAL NO. 2099 OF 2013

Director of Income Tax (IT) I
Mumbai .. Appellant
v/s.

APL Co. Pte. Ltd. ..Respondent

Mr. Tejveer Singh for the appellant
Ms. A. Vissanji a/w S.J. Mehta i/b M/s. S.P. Mehta & Co. for the respondent

CORAM : M.S. SANKLECHA &
B.P. COLABAWALLA, J.J.
DATED : 12th JANUARY, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 20th March, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2004-05.

2. This appeal raises the following questions of law for our consideration :-

> *(a) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in holding that income of the assessee, arising by way of slot chartering, would form a part of the income from operations of ships, exempt under Article 8 of the India Singapore DTAA ?*

(b) Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in holding that the 7+1 ships / vessels, for which there are no supporting documents, should be considered under Section 44B of the IT Act, 1961, i.e. a special provision for shipping business especially when the Tribunal did not find these ships coverable under Article 8 of the India Singapore DTAA ?

2. Re. Question (a) : Mr. Tejveer Singh, learned Counsel for the Revenue very fairly states that question (a) as formulated stands concluded against the Revenue by the decision of this Court in ***Director of Income Tax (International Taxation) vs. Balajai Shipping UK Ltd. 253, CTR 460***. In the above view, question (a) as formulated does not give rise to any substantial question of law. Hence, not entertained.

3. The appeal is admitted on substantial question (b).

4. Registry is directed to communicate a copy of this order to the Tribunal. This would enable the Tribunal to keep the papers and proceedings relating to the present appeal available, to be produced when sought for by the Court.

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