भारतीय नौवहन निगम लिमिटेड
(भारत सरकार का उद्यम)
पंजीकृत कार्यालय: शिपिंग हाउस, 245 मादाम कामा रोड, मुंबई - 400 021.
फोन: 91-22-2202 6666, 2277 2000 फैक्स: 91-22-2202 6905 वेबसाइट: www.shipindia.com
The Shipping Corporation Of India Ltd.
(A GOVERNMENT OF INDIA ENTERPRISE)
Regd. Office: Shipping House, 245, Madame Cama Road, Mumbai-400 021. Ph: 91-22 2202 6666, 2277 2000
Fax: 91-22 22026905 • Website: www.shipindia.com
सीआईएन/CIN-L63030MH1950GOI008033
SCI
Navratna Company
(ISO 9001:2015, ISO 14001:2015
& ISO 45001:2018 Certified)

Ref: A10-SEC-BD-808/202/2024 Date: 09.05.2024

To,

Listing Compliance Department **BSE Limited,** Phiroze Jeejeebhoy Towers, Dalal Street, Mumbai – 400001.	The Manager - Listing Compliance **National Stock Exchange of India Limited** 'Exchange Plaza' C-1, Block G, Bandra Kurla Complex, Bandra (East), Mumbai – 400051
BSE Scrip Code – 523598	**NSE Trading Symbol – SCI**

Intimation under Regulation 30 of SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015

Dear Sir/ Madam,

Disclosure under Regulation 30(4) of SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015 is enclosed herewith.

Date and time of occurrence of event: 08.05.2024 at 1845 hours.

Submitted for your information, kindly take the same on your records.

Thanking You.

Yours Faithfully,
For **The Shipping Corporation of India Limited**

SWAPNITA VIKAS YADAV

Digitally signed by SWAPNITA VIKAS YADAV
DN: c=IN, o=THE SHIPPING CORPORATION OF INDIA LTD, 2.5.4.20=c65e7895e05a6361384404711ab989ad215336af76c0b03b6f179591331e0a29, ou=Company secretary division,CID - 6899691, postalCode=400021, st=Maharashtra, serialNumber=82df07a0ba223e3c552507283eccd1d67da1018cf9ac57f6b2640eae83928b07, cn=SWAPNITA VIKAS YADAV
Date: 2024.05.09 14:41:05 +05'30'

Smt. Swapnita Vikas Yadav
Company Secretary and Compliance Officer

DISCLOSURES OF EVENTS OR INFORMATION

(Disclosure of events upon application of the guidelines for materiality in terms of Para B of Part A of Schedule III of the LODR Regulations)

[Refer regulation (30)]

The details of litigation(s) or dispute(s) or the outcome thereof which may have an impact on the entity:

S.No.	Name of the Court/Tribunal/Agency where litigation is filed	Name of the Parties	Brief Details of Dispute/Litigation	Amount involved/ claimed, if any & Expected financial implications, if any
1	Income Tax Appellate Tribunal, Mumbai	Income Tax Department Vs SCI	SCI received order on 8th May 2024 from the Income Tax Appellate Tribunal pertaining to financial year 2009-10 covering various grounds such as Additions made to sundry receipts, Adjusting turnover from core shipping by reducing sundry receipts, Interest income forms part of core activity, Excess Provision written back, sundry creditors written back,profit on sale of vessels and other assets, Reimbursment of overhead mangaed vessels included in core activity etc.	In this order, there may be favourable impact of Rs 7433 lakhs. The company is further evaluating the implications of the order on the financial statements.

Note:

1) The terms "SCI" or "Company" wherever used shall mean "The Shipping Corporation of India Ltd."

CM (Tax) 09/05/2024

Through: GM I/c - Tax, IAD & CBRC pls. 9/5/24.

Through: CFO pls. 9/5/24.

Through D(F) pls.: 9/5/24 Ass Addl. Charge

Company Secretary pls.:

IN THE INCOME TAX APPELLATE TRIBUNAL
"E" BENCH, MUMBAI

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA No.169/Mum/2021

(A.Y. 2012-13)

The Shipping Corporation of India, 245, Shipping House, Madam Cama Road, Nariman Point, Mumbai – 400 021	Vs.	Additional Commissioner of Income Tax (LTU) 29th Floor, Tower -1, World Trade Centre, Cuffe Parade, Mumbai 400006
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No:AAACT1524F		
Appellant	..	Respondent

ITA No.482/Mum/2021

(A.Y. 2010-11)

ACIT-3(4) 29th Floor, Center-1, World Trade Center, Cuffe Parade, Mumbai - 400005	Vs.	The Shipping Corporation of India Limited 10th Floor, Shipping House, 245, Madam Cama Road, Nariman Point, Mumbai – 400021
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No:AAACT1524F		
Appellant	..	Respondent

Appellant by :	Nitesh Joshi
Respondent by :	Jasbir S. Chouhan a/w P.D. Chougule

Date of Hearing	19.02.2024
Date of Pronouncement	28.02.2024

आदेश / O R D E R

Per Amarjit Singh (AM):

Both these cross appeals filed by the assessee and revenue are directed against two different order of CIT(A)-1, Mumbai passed u/s 250

of the Act pertaining to assessment year 2010-11 and 2012-13. Since, common issue on identical facts are involved in these appeals, therefore, for the sake of convenience both these appeals are adjudicated together by taking ITA No.169/Mum/2021 as a lead case and its finding shall be applied mutatis mutandis to the other appeal filed by the revenue.

ITA No.169/Mum/2021

2. Fact in brief is that return of income declaring total income of Rs.26,10,82,715/- was filed on 28.09.2010. The return was subject to scrutiny assessment and notice u/s 143(2) of the Act was issued on 02.09.2011. The assessee company was engaged in the business of merchant shipping during the year under consideration. The assessee company has opted for Tonnage Tax Scheme i.e a presumptive taxation scheme mentioned in chapter XII-G of the Act from the assessment year 2005-06 onward. The assessment u/s 143(3) of the Act for the year under consideration was finalised on 29.01.2013 and total income was assessed at Rs.312,72,77,090/- after making various addition and disallowances. Further fact of the case are discussed while adjudicating the ground of appeal filed by the assessee. Before the ITAT the assessee has also filed additional ground of appeal on 01.01.2024 which was also admitted for adjudication.

Ground No.1: (i) Sundry credit balances written back amounting to Rs.19,58,670:

(ii) Excess provision written back amounting to Rs.19,42,29,013/- (being 80% of the excess provision written back amounting to Rs.24,27,86,267/-:

3. During the course of assessment the assessing officer noticed that assessee has declared certain income in the nature of excess provision/sundry credit balance written back of Rs.67.17 crores. On

further verification the AO found that the following income have been categorised (under core activities) whereas the same were not qualified for categorised as relevant core activity as per the provision of Sec. 115BVII (2) of the Act.

Sr. No.	Nature of Income	Amt (Rs.)
1.	Excess Provisions/Sundry Credit Balances	62,85,16,392
2.	Sundry creditors Written back	3,32,33,477
3.	Sundry Receipts	28,42,44,559

The AO noticed that the assessee had opted for the 'tonnage tax scheme' w.e.f 2005-06 therefore any receipt arising from prior to A.Y. 2005-06 cannot be formed part of the tonnage tax computation and same would not qualify to be categorised as shipping income from the core activity in their entirety. Out of the sundry credits written back of Rs.3.32 crore a sum of Rs. 19,58,670/- was pertained to the pre-tonnage tax era. Out of excess provision back of Rs.62.85 crore a sum of RS.24,27,86,267/- pertained to pre-tonnage tax era. The AO on his own excluded certain items and estimated 80% of the such provision to be added to the total income of the assessee pertaining to the pre-tonnage era. The assessing officer stated that similar issue were there in assessment year 2007-08 and assessment year 2009-10 and addition was made on the ground that same were not falling under the core activity which was upheld by the ld. CIT(A). However, ITAT has deleted such addition and the department has not accepted the decision of ITAT on which the appeal has been filed before the Hon'ble jurisdictional High Court of Bombay. By referring the earlier order of assessment for assessment year 2007-08 and 2008-09 the assessing officer has stated that claim of sundry creditors written back of Rs.19,58,670/- pertaining to pre-tonnage regime was taxable under the normal provision of the Act.

Similarly, in respect of excess provision written back of Rs.62,85,16,393/- the assessing officer stated that excess provision written back of Rs.24,27,86,267/- was pertained to pre-tonnage era.

The assessing officer stated that in the pre-tonnage era the normal provision of tax were applicable and therefore, the assessee was required to add back the provision which were made against unascertained liability. Therefore, 80% of the excess provision written back for pre-tonnage period of Rs.242,78,627/- which works out to Rs.19,42,29,013/- was treated as income to be assessed under the normal provision of the Act.

5. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee holding as under:

> *"1. As per section 115VZB, tonnage tax scheme not to apply where a tonnage tax company is a party to any transaction or arrangement which amounts to abuse of tonnage tax scheme.*
> *2. As per section 176(3A), any sum received after discontinuance of business shall be deemed to be income of the recipient.*
> *3. Section 115VE permits separate taxation of profits from both tonnage tax and non-tonnage tax business.*
> *4. The relevant details of write-back were not provided to the AO or CIT(A).*

6. During the course of appellate proceedings before us the ld. Counsel submitted that identical issue on similar fact has been adjudicated by the ITAT in favour of the assessee for 2006-07 to 2009-10.

7. On the other hand, the ld. D.R supported the order of lower authorities.

8. Heard both the sides and perused the material on record. Without retreating the facts as elaborated above the assessee has declared certain income relating to earlier years pertained to excess provision/sundry credit written back amounting to Rs.66.17 crores out of which an amount of Rs.62.85 crores had been considered as core shipping income of the assessee as defined in Sec. 115V(2) of the Act. The assessee has also declared sundry creditors written back of Rs.24,27,86,267/- as its core shipping income from the core activity as defined in Sec. 115V(2) of the Act. The assessing officer observed that

assessee has opted for Tonnage Tax Scheme w.e.f assessment year 2005-06, therefore, aforesaid income would not qualified to be categorised as shipping income from core activity. Therefore, the assessing officer noticed that out of the sundry credit written back of Rs.3.32 crores a sum of Rs.19,58,670/- was pertained to the pre-tonnage tax era, therefore, he brought the same to tax under the normal provision of the Act.

9. Similarly in respect of excess written back of Rs.62.85 crores the assessing officer observed that a sum of Rs.24,27,86,267/- pertained to the pre-tonnage tax era and he treated 80% of such excess provision written back as pertaining to the pre-tonnage period at Rs.19,42,29,013/- and same was taxed under the normal provision of the Act.

10. Before us the ld. Counsel submitted that similar issue on identical fact has been consistently decided in favour of the assessee by the ITAT in the earlier years from assessment year 2006-07 to assessment year 2009-10 and placed the copies of order of ITAT in the paper book. With the assistance of ld. representative we have gone through the findings of the ITAT and the extract of the ITAT for assessment year 2007-08 vide ITA No. 145/Mum/2011 dated 29.07.2011 is reproduced as under:

> *"28. The issue is, whether write back of sundry credit balances, prior period expenses and provisions for expenses, should be considered as income from core activity of tonnage tax company. For this proposition, we extract following sections:-*
>
> *"Computation of profits and gains from the business of operating qualifying ships.*
>
> *115VA. Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of a company, the income from the business of operating qualifying ships, may, at its option, be computed in accordance with the provisions of this Chapter and such income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".*
>
> *(j) "tonnage income" means the income of a tonnage tax company computed in accordance with the provisions of this Chapter;*

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(k) "tonnage tax activities" means the activities referred to in subsections (2) and (5) of section 115V-I;

(l) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(m) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Chapter.

Tonnage income.

115VF. Subject to the other provisions of this Chapter, the tonnage income shall be computed in accordance with section 115VG and the income so computed shall be deemed to be the profits chargeable under the head "Profits and gains of business or profession" and the relevant shipping income referred to in sub-section (1) of section 115V-I shall not be chargeable to tax.

Computation of tonnage income.

115VG. (1) The tonnage income of a tonnage tax company for a previous year shall be the aggregate of the tonnage income of each qualifying ship computed in accordance with the provisions of subsections (2) and (3).

(2) For the purposes of sub-section (1), the tonnage income of each qualifying ship shall be the daily tonnage income of each such ship multiplied by—

(a) the number of days in the previous year; or

(b) the number of days in part of the previous year in case the ship is operated by the company as a qualifying ship for only part of the previous year, as the case may be.

(3) For the purposes of sub-section (2), the daily tonnage income of a qualifying ship having tonnage referred to in column (1) of the Table below shall be the amount specified in the corresponding entry in column (2) of the Table:

Qualifying ship having net tonnage	*Amount of daily tonnage income*
(1)	*(2)*
Up to 1,000	*Rs.46 for each 100 tons*
Exceeding 1,000 but not more than 10,000	*Rs.460 plus Rs. 35 for each 100 tons exceeding 1,000 tons*
Exceeding 10,000 but not more than 25,000	*Rs.3,610 plus Rs.28 for each 100 tons exceeding 10,000 tons*
Exceeding 25,000	*Rs.7,810 plus Rs.19 for each 100 tons exceeding 25,000 tons*

(4) For the purposes of this Chapter, the tonnage shall mean the tonnage of a ship indicated in the certificate referred to in section 115VX and includes the deemed tonnage computed in the prescribed manner.

Explanation.—For the purposes of this sub-section, "deemed tonnage" shall be the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel.

(5) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and thereafter if such tonnage is not a multiple of hundred, then, if the last figure in that amount is fifty tons or more, the tonnage shall be increased to the next higher tonnage which is a multiple of hundred and if the last figure is less than fifty tons, the tonnage shall be reduced to

the next lower tonnage which is a multiple of hundred; and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(6) Notwithstanding anything contained in any other provision of this Act, no deduction or set off shall be allowed in computing the tonnage income under this Chapter.

Relevant shipping income.

115V-I. (1) For the purposes of this Chapter, the relevant shipping income of a tonnage tax company means—

(i) its profits from core activities referred to in sub-section (2);

(ii) its profits from incidental activities referred in sub-section (5):

Provided that where the aggregate of all such incomes specified in clause (ii) exceeds one-fourth per cent of the turnover from core activities referred to in sub-section (2), such excess shall not form part of the relevant shipping income for the purposes of this Chapter and shall be taxable under the other provisions of this Act.

(2) The core activities of a tonnage tax company shall be—

(i) its activities from operating qualifying ships; and

(ii) other ship-related activities mentioned as under :—

(A) shipping contracts in respect of—

(i) earning from pooling arrangements;

(ii) contracts of affreightment.

Explanation.—For the purposes of this sub-clause,—

(a)"pooling arrangement" means an agreement between two or more persons for providing services through a pool or operating one or more ships and sharing earnings or operating profits on the basis of mutually agreed terms;

(b)"contract of affreightment" means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period;

(B)specific shipping trades, being—

(i)on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on board;

(ii)slot charters, space charters, joint charters, feeder services, container box leasing of container shipping.

(3) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, exclude any activity referred to in clause (ii) of sub-section (2) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

(4) Every notification issued under this Chapter shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the

विधि एवं न्याय मंत्रालय MINISTRY OF LAW & JUSTICE INCOME TAX APPELLATE TRIBUNAL आयकर अपीलीय अधिकरण सत्यमेव जयते

notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

(5) The incidental activities shall be the activities which are incidental to the core activities and which may be prescribed for the purpose.

(6) Where a tonnage tax company operates any ship, which is not a qualifying ship, the income attributable to operating such nonqualifying ship shall be computed in accordance with the other provisions of this Act.

(7) Where any goods or services held for the purposes of tonnage tax business are transferred to any other business carried on by a tonnage tax company, or where any goods or services held for the purposes of any other business carried on by such tonnage tax company are transferred to the tonnage tax business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date:

Provided that where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such income on such reasonable basis as he may deem fit.

Explanation.—For the purposes of this sub-section, "market value", in relation to any goods or services, means the price that such goods or services would ordinarily fetch on sale in the open market.

(8) Where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing Officer shall, in computing the relevant shipping income of the tonnage tax company for the purposes of this Chapter, take the amount of income as may reasonably be deemed to have been derived therefrom.

Explanation.—For the purposes of this Chapter, in case the relevant shipping income of a tonnage tax company is a loss, then, such loss shall be ignored for the purposes of computing tonnage income."

29. Provisions of section 115VA provides that the income from business of operating qualifying ships may be computed in accordance with the provisions of chapter XII-G, and that the income so computed shall be deemed to be the profits and Income from qualifying ships are defined in section 115VC, and there is no dispute on this aspect. Section 115VE mandates that profits from business of a company engaged in the business of operating qualifying ships shall be computed under the tonnage tax scheme. It also specifies that such business of operating qualifying ships shall be considered as a separate business distinct from all other activities or business carried on by the company. The mode of computation of tonnage income is given under section 115VG. The

term "relevant shipping income" has been defined in section 115VI. It is basically classified into two categories i.e., profits from core activities referred to in sub-section 2 and profits from incidental activity referred to in sub-section 5. The issue is, whether the income by way of right back of provisions of sundry credit balances and prior period expenses can be considered as income from core activities of a tonnage tax company. In our opinion, write back of these items is to be considered as income from core activity. In a going concern, such write backs and making of supplementary provisions takes place. The Assessing Officer as well as the Commissioner (Appeals) have treated the very same income which is taxable under section 41(1) differently. The first being expenditure claimed in pre-tonnage tax scheme assessment years and the second being expenditure claimed in post tonnage tax scheme assessment years. Such a segregation is not permissible under the Act. Both the incomes are incomes from core activity and just because tax rates different, they cannot be treated as non-business income. The Assessing Officer as well as the Commissioner (Appeals) seem to have been influenced by the fact that the assessee has an income of ` 800 crores in its Profit & Loss account and whereas he has offered only ` 18 crores to tax under the tonnage tax scheme. The decision whether a particular income has to be brought to tax or not, cannot be based on such a view of the matter. The legislature in its wisdom provided the manner of computation of income under the tonnage tax scheme. In section 115VA, it is clearly provided that sections 28 to 43C would not over ride the computation of profits and gains under section 115VA. As section 41(1) falls within sections 28 to 43C, no separate addition under that section can be made. As section 41(1) seeks to bring to tax certain specified items of receipts under the head "profits and gains of business" the scheme should not be invoked while computing profits and gains of business under Chapter-XII-G. Hence, we are of the opinion that the argument of the assessee should succeed.

30. With the introduction of chapter-XII-G, the entire methodology of taxing income from the business of operating qualifying ships has changed and recourse to the normal provisions of the Act in a peace-meal manner is not authorised by law. Though the assessee has computed other income while filing its return of income, in our opinion, the income arising from section 41(1), cannot be classified as, either income from other sources or income from incidental activities. When all the ships of the assessee are qualifying ships and when there is no other activity other than core activities and incidental activities, in our opinion, a third category of other business income cannot be created. As pointed out by the learned Sr. Counsel, if such introduction is allowed then, a claim of the assessee of deduction under section 43B i.e., deduction only on actual payment would be required thruogh the expenditure actually belongs to pre-tonnage period. to be allowed. The Assessing Officer cannot take recourse to sections 28 to 43C, when there is no other activity or business carried on by the company, other than business of operating qualifying ships. In view of the above discussion, we allow ground no.1 of the assessee."

11. There is nothing before us on hand to differ from the issues raised in the cases cited supra so as to take a different view on this issue. Therefore, since issue on hand being squarely covered we find merit in the submission of the assessee and allow the claim of the assessee for

treating the income under the core activity, therefore, ground no. 1 of the assessee is allowed.

Ground No. 2: Taxing the sum aggregating to Rs.387,01,556/- (being 80% of the sundry receipts amounting to Rs.4,83,76,945/- pertaining to certain receipts recorded under 'sundry' receipts:

12. During the course of assessment the assessing officer noticed that assessee has offered Rs.10,65,83,501/- under the incidental activity in the computation sheet. The AO has further given the break-up of core shipping receipt claimed by the assessee as under:

Particulars	Core Shipping
Commission on disbursement (receipts)	1,03,153
Insurance + P & I claims	8,37,37,661
House Rent ownership flat	1,26,74,819
Rent on furniture	56,604
Co's bus services	130
Liquated Damages (Dry Docks)	4,56,27,987
Profit on Bar + Shops Sales	91,105
Refund of Director's fees	21,93,338
Application Money – Right to Info Act	2984
Total Sundries	17,76,61,058

The assessing officer asked the assessee to explain why the aforesaid sundry receipt should not be taxed under the normal provision of the Act. The assessee explained that these receipts were recorded on gross basis and expenses incurred against the same have been debited to the profit and loss account and if these receipts were treated as income from other sources or normal business income then it would adversely affect the computation of income as the claim of expenses will be denied to the assessee. However, the assessing officer except considering the claim of incurring expenses against the income earned have not accepted the contention of the assessee. The assessing officer stated that the tonnage tax scheme was applicable for the income earned from operation of qualified ships and that too from the activities which have been listed as core activities of operation of ships. Therefore, he was of the view that the aforesaid receipt earned from the unrelated activities

were taxable under the normal provision of the Act. On further query the assessee has submitted expenses incurred against 3 heads as under:

"1.	Insurance + PI claims	Rs.8,37,37,681
2.	House rent ownership flat	Rs.1,26,74,819
3.	Co's bus services	Rs. 130
	Total	Rs.9,64.12,610

The assessing officer has reduced the aforesaid expenses of Rs.964,12,610/- from the amount of Rs.17,76,61,058/- and stated that balance amount of Rs.812,48,448/- was not in the nature of receipt pertaining to the activity of the shipping activity. However, the AO has further reduced 20% of the amount as possible administration cost from the amount of Rs.812,48,448/- and treated the amount of Rs.649,98,758/- as income of the assessee.

13. The assessee filed the appeal before the ld. CIT(A). However, the ld. CIT(A) has upheld the decision of assessing officer.

14. During the course of appellate proceedings before us the ld. Counsel submitted that Liquidated damages/dry dock, Refund of Directors fees, Contribution to employees' new PRMS (post Retirement Medical Scheme), Rent on furniture, Application Money-Right to Information Act, 2005 has been decided by the ITAT in the earlier years in favour of the assesse for assessment year 2008-09 and 2009-10.

15. On the other hand, the ld. D.R supported the order of lower authorities.

16. Heard both the sides and perused the material on record. During the course of assessment the assessing officer has taxed the sundry receipt amounting to Rs.649,98,758/- under the normal provision of the Act as discussed supra in this order on the ground that tonnage tax scheme was applicable to the income earned from operation of qualified ships and that too from the activities which was listed as core activities.

The assessee explained that sundry receipts were related to the operation of ships therefore the same was required to be considered as income from core activities. The relevant part of the submission of the assessee filed before the ld. CIT(A) explaining the nature of income is reproduced as under:

Sr. No.	Particulars of Income	Nature of Income
1	Cleaning charges	The appellant's containers are given to customer for loading cargo in a clean and good to load condition. However, when the containers are returned by the customer after the journey the appellant levy's cleaning charges to customer for cleaning the containers depending upon the condition of container and nature of cargo.
2	Container Damage maintenance Charges	Any Damage cost/maintenance cost of container incurred by the appellant is recovered from customer for any damage done by customer during use of containers belonging to the appellant
3	Port Handling charges	The containers owned by customers are loaded on the appellant's vessel for such cargo for overseas. In such case, the port recovers handling charges for lading the containers to the appellant vessel from the appellant which the appellant recovers from the customer.
4	Electricity charges	Due to the perishable nature of cargo it requires cold storage containers. The appellant recovers the electricity charges for cold storing the cargo and are recovered from the customer.
5	Fire Fighting Charges	The appellant is required to keep firefighting apparatus on standby mode at the port if the consignment contains dangerous or explosive cargo. The appellant recovers such charges from the customer whose cargo is of dangerous or explosive nature
6	Recovery of Port rent	This are the charges levied by the Port authorities to the appellant towards additional port rent or port charges for delayed movement of containers from port which the appellant recovers from respective consignees
7	Documentation charges	These charges are charged by the appellant to the customer for preparing the necessary documentation at the time of shipment of the consignment
8	Non manifested charges	These charges are recovered from the consignee on account of changes in the documentation, additional request, endorsement charges, crane charges etc
9	Re-nomination and Destination Change Charges	The appellant needs to prepare new documentation when the destination to deliver cargo is changed by the customer or on his direction cargo needs to be delivered to third party. The appellant therefore levies these charges in respect of the changes in the documentation from the customer.

Sr. No.	Particulars of Income	Nature of Income
10	Additional Terminal Handling charges	When the destination to deliver the cargo is changed by the customer the cargo needs to be re shuffled in the storage space in such a manner that the goods to be delivered at last should be placed at last in the storage area. Therefore, additional charges are levied to customer for re scheduling the cargo
11	Slop removal charges	When the ships are given for maintenance/service purpose then the oil and other petroleum product stuck in between the machines is removed and sold as a scrap. The said income is on account of such scrap recovery.
12	Mounting de mounting charges	Additional charges recovered from customer for loading cargo from ports to the trucks of the customer as per their request.
13	Additional free Days	The customer has to clear the cargo from the port within 5 days of unloading. If on customer's request the cargo is taken after the eligible period then charges are recovered for the storage at the port
14	Owners expenses recovery/Vat recovery	When on the in chartered vessel any expenditure is incurred by the appellant which are supposed to be incurred by the ship owner then these expenses are recovered from them and accounted here.
15	Recovery of late gate in charges	The customer has to bring the cargo 2 days prior to the ship entering the port. If the customer delays to load the cargo at the port and if the ship needs to wait at the port. The port authority levies charges which are recovered from the customer.

INCOME TAX APPELLATE TRIBUNAL
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17. Further we have perused the decision of ITAT in the case of the assessee on this issue for assessment year 2007-08 to 2009-10. The relevant extract of the decision vide ITA No. 2550/Mum/2012 pertaining to assessment year 2008-09 is reproduced as under:

> *"22. We have considered the rival submissions and perused the material available on record. The assessee has taken accommodation on rent for its employees involved in the core activity of the organisation, which was further sublet to those employees. As per the assessee, it incurred an expenditure of Rs.14,25,55,708 and recovered the house rent from his employees only to an extent of Rs.1,21,83,784. It is the plea of the assessee that the accommodation was taken on rent in respect of employees involved in the core activity of the organisation and therefore the recovery of rent is nothing but related to its core activity. Since the assessee does not have any other business other than the business of operating qualifying ships and as it has no other activity as contemplated under Chapter XII-G, we are of the considered opinion that the income cannot be brought to tax separately and it is the income from the core activity.*
>
> *23. Similarly, the receipt of rent on furniture of Rs.30,404, company"s bus service of Rs.1,795, contribution for employees" new post-retirement medical scheme of Rs.5,000, and penal charges levied on employees of Rs.9,150, are is in respect of employees involved in the core activity of the business of the assessee, we are of the considered opinion that same is not taxable under the normal provisions of the Act.*
>
> *24. As regards the refund of Director's fees of Rs.7,49,819, as per the assessee the same is recovered from the Directors who are holding the office as Director in companies where the assessee had joint ventures etc. Such Directors are paid their remuneration and as per the terms of employment, Directors" sitting fees are recovered. Since the assessee"s only business is operating the qualifying ships therefore the aforesaid refund is also related to its core activity and thus cannot be taxed under the normal provisions of the Act.*
>
> *25. The receipt of Rs.6,05,004 is on account of commission on disbursement which the assessee earned over and above the disbursement amount paid to the agents, Captain, and crew of ships when the ship is abroad. As per the assessee, such disbursement was pursuant to an agreement with certain shipowners. We have already upheld the taxability of commission on disbursement under Chapter XII-G, which was forming part of the prior period income. Since this commission is also of a similar nature and that too pertaining to the post tonnage tax era, therefore, same forms part of core shipping activity.*
>
> *26. Similarly, the receipt of Insurance and P & I claims forming part of prior period income has been held to be forming part of core shipping activity. Therefore the receipt of Rs.3,35,51,032 on account of Insurance and P & I claims, which relates to the qualifying ship also forms part of the core shipping activity.*
>
> *27. As regards the receipt of Rs.6,65,11,332 on account of liquidated damages (dry docks), it is the plea of the assessee that the ships are sent for drying rocks*

repair as it is mandated procedure to maintain the vessels seaworthy. Further, periodically vessels are sent to the shipyard or to the maintenance workshop and this process is called dry docking. The liquidated damages are recoveries from the shipyard or maintenance agencies. The entire dry-dock expenses incurred on the operation of qualifying ships are debited to the revenue account, whereas the liquidated damages are credited. Since the liquidated damages on account of delay or deficiency in service in respect of the qualifying ships, therefore, we are of the considered opinion that such receipt is part of the core shipping activity of the assessee.

18. Since the issue on hand being squarely covered by the decision of the ITAT Mumbai in the case of the assesse itself as discussed supra, therefore ground no.2 of the assessee is allowed excluding the amount of Rs.2,984/- on the issue of application money for right to information Act which was not pressed.

Additional Ground No. 2: Deduction of expenditure incurred for earning of sundry receipts aggregating to Rs.4,83,76,945/-:

19. Since we have allowed the claim of the assessee by considering the sundry receipts as part of core activities while adjudicating ground no. 2 of the appeal of the assessee as discussed above in this order, therefore, additional ground no. 2 become academic not required any adjudication.

Additional Ground No.3: Sundry receipts aggregating to Rs.9,64,12,610/- should be treated as 'profit from core activities':

20. During the course of assessment the assessing officer has not treated sundry receipt aggregating to Rs.964,12,610/- as mentioned below as profit from core activities.

"1.	Insurance + PI claims	Rs.8,37,37,681
2.	House rent ownership flat	Rs.1,26,74,819
3.	Co's bus services	Rs. 130
	Total	Rs.9,64,12,610

21. The assessee filed the appeal before the ld. CIT(A). In respect of aforesaid receipts to the ld. CIT(A) held that receipt under the head insurance and PI claim was not part of turnover from core shipping

activity but it was incidental to the business therefore same was excluded from the computation of turnover of core activities. In respect of receipt under head house rent the ld. CIT(A) held that this was the receipt recovered from the employees towards house rent which was not part of turnover from core shipping activity, therefore, same had to be excluded from the turnover of core activities. Regarding receipt from company bus services the ld. CIT(A) held that same was not part of turnover from core shipping activities, therefore, same was excluded from turnover of core shipping activities.

22. During the course of appellate proceedings before us, regarding insurance and PI claim the ld. Counsel submitted that as per the insurance policy the assessee had incurred the cost of the repair which was thereafter claimed as per the insurance policy and the same was directly related to the core activity of the assessee. In respect of receipt from house rent the ld. Counsel submitted that assessee has taken accommodation or rent for its employees and incurred expenses on a lease rent and recovered from normal house rent of Rs.126,74,819/- from the employees, therefore, the same was related to the core activity. In respect of company receipt from company bus service he submitted that assessee has provided bus service to its employees, therefore recovery of the bus services amount required to be treated as part of core activity. The ld. Counsel has also submitted that identical issue on similar facts has been adjudicated by the ITAT, Mumbai in favour of the assessee in the case of the assessee itself for the assessment year 2008-09.

23. On the other hand, the ld. D.R supported the order of lower authorities.

24. Heard both the sides and perused the material on record. The assessee explained that receipt from insurance and PI claim was directly

related to the core shipping activity of the assessee in respect of its ships as the same was arised out of insurance claim for damages which was restricted up to the actual expenses incurred by the assessee. Similarly, the house rent was related to the accommodation arranged by the assessee for its employees on lease basis for which it had incurred expenditure of Rs.13,93,00,092/- on lease rent and recovered from normal house rent of Rs.126,74,819/- from the employees, therefore, same is related to the core activity of the assessee company and these expenses were incurred every year for the purpose of the business of the assessee. Therefore, the part of the amount recovered out of the expenditure is a receipt related to the core activity of the assessee company. Similarly, the bus service were arranged by the assessee for its employees who were working in the assessee company, which is related to the business of the assessee and part of the core activity. With the assistance of ld. Representative we have also gone through the decision of ITAT in the case of assessee itself for A.Y. 2008-09 vide ITA No. 2550/Mum/2012 dated 14.03.2023 wherein identical issue on similar fact has been decided in favour of the assessee. The relevant operating part of the decision is reproduced as under:

> *"12. It is an undisputed fact that all the ships owned and in-chartered by the assessee are qualified ships. From the aforesaid facts, it is evident that the receipt of Insurance and P & I claim by the assessee is in respect of its 2 ships, which were damaged in preceding years but post-tonnage tax era. The assessee first incurred the cost of the repair, which was thereafter claimed as per the insurance policy. Since the receipt of the Insurance and P & I claim is directly in relation to the core shipping activity of the assessee in respect of its ships, which are qualifying ships, therefore the receipt is covered under section 115VI of the Act.*
>
> *22. We have considered the rival submissions and perused the material available on record. The assessee has taken accommodation on rent for its employees involved in the core activity of the organisation, which was further sublet to those employees. As per the assessee, it incurred an expenditure of Rs. 14,25,55,708 and recovered the house rent from his employees only to an extent of Rs.1,21,83,784. It is the plea of the assessee that the accommodation was taken on rent in respect of employees involved in the core activity of the organisation and therefore the recovery of rent is nothing but related to its core activity. Since the assessee does not have any other business other than the*

business of operating qualifying ships and as it has no other activity as contemplated under Chapter XII-G, we are of the considered opinion that the income cannot be brought to tax separately and it is the income from the core activity.

23. Similarly, the receipt of rent on furniture of Rs.30,404, company's bus service of Rs.1,795, contribution for employees" new post-retirement medical scheme of Rs.5,000, and penal charges levied on employees of Rs.9,150, are is in respect of employees involved in the core activity of the business of the assessee, we are of the considered opinion that same is not taxable under the normal provisions of the Act."

25. We find that issues raised before the Tribunal in this year are similar to preceding assessment year 2008-09. It would not be appropriate for us to deviate from the view taken in earlier years without pointing out any material change in the facts and circumstances in subsequent year. Therefore, following the decision of ITAT in the case of the assessee itself on the similar issue and identical as discussed above this additional ground of appeal of the assessee is allowed.

Additional Ground No.4: Deduction of expenditure allowed by the ld. A.O against sundry receipts aggregating to Rs.9,64,12,610/- should be upheld.

26. Since we have adjudicated the additional ground no. 3 in favour of the assessee therefore, in consequence to additional ground no. 3 this additional ground of appeal no. 4of the assessee become academic and not required any adjudication therefore the same stand dismissed.

Ground No.3: Adjustment in computation of turnover of core shipping:

27. Since we have adjudicated the ground no. 2 of appeal of the assessee regarding taxing the sundry receipts as part of core activities, therefore, in consequence to ground no. 2 this ground of appeal no. 3 of the assessee become academic not required any adjudication therefore the same stand dismissed.

Additional Ground No. 1: Interest income of Rs.218,15,37,199/- constituted profits from core activities and therefore could not be separately assessed to tax:

28. During the course of assessment the assessing officer noticed that under the head other taxable income the assessee has offered the following income:

Sr. No.	*Nature of Income*	*Amount (Rs. In crores)*
1.	*Interest on bank deposits*	*188,93,39,520*
2.	*Interest on deposits*	*9,92,04,691*
3.	*Interest on others*	*19,29,92,988*
4.	*Dividend*	*2,31,81,942*
	Total	*220,47,19,141*

as income from other sources and claimed administrative expenditure of Rs.11,52,75,610/- against the above income as deduction resulting in net income from other sources of Rs.208.9 crores. Assessee in its additional ground of appeal submitted that out of the above income interest income of Rs.218,15,37,199/- was arising from the business of operating qualifying ships. Since the deposit amount relating to shipping reserves was created as per Sec. 115VT of the Act was temporarily placed on fixed deposit until its utilisation for the purpose of operating of ships, therefore, interest income earned on the funds pertaining to running the shipping business is required to be treated as income from core shipping activity. In this regard the ld. Counsel submitted that similar issue on identical facts for the assessment year 2008-09 was adjudicated by the ITAT, Mumbai in favour of the assessee vide order of the ITAT vide ITA No. 2550/Mum/2012 dated 14.03.2023.

29. On the other hand, the ld. D.R supported the order of lower authorities.

30. Heard both the sides and perused the material on record. With the assistance of the ld. representative we have gone through the

decision of ITAT for A.Y. 2008-09 as referred above by the ld. Counsel. The relevant operating part of the decision is reproduced as under:

> *"38. At the outset, the learned AR wishes not to press its claim in respect of dividend income. Accordingly, to this extent, ground No. 4.1 is dismissed as not pressed. As regards the interest income of Rs. 227.68 crores, the assessee submitted that the said receipt forms part of the core shipping activity of the assessee and therefore should be taxed on a presumptive basis under Chapter XII-G of the Act. As per section 115VT of the Act, tonnage tax company is required to credit to Tonnage Tax Reserve Account an amount not less than 25% of the book value derived from the activities referred to in section 115VI in each previous year. As per section 115VT(3) of the Act, the amount credited to the Tonnage Tax Reserve Account is required to be utilised by the company before the expiry of 8 years for acquiring a new ship for the purpose of the business of the company and until the acquisition of the new ship for the purpose of the business of operating qualifying ships. As per the assessee, in its Tonnage Tax Reserve, following the procedure prescribed under the aforesaid section, is Rs.695 crores as on 31/03/2008. Further, the assessee earned interest on deposits placed with the banks and financial institutions out of the funds required for purpose of the business but temporarily lying idle. The funds are required for meeting the working capital requirement and repayment of loans earlier taken for the acquisition of ships. In support of its submission, the assessee has placed on record statements showing the placement of surplus funds in short-term deposits on weekly basis, by way of additional evidence filed vide application dated 18/02/2021. It was submitted that factual assertion was made before the learned CIT(A), however, the underlying document in support of the same are filed for the first-time before the Tribunal. The assessee has also placed on record the details of repayment of loans taken for the acquisition of ships. Further, the month-wise weekly fund position was also filed by the assessee. In the present case, it is undisputed that the only business activity pursued by the assessee relates to shipping, and thus the entire receipts are from the shipping activity, which qualifies for computation on a presumptive basis under the tonnage tax provisions. We find that the Hon"ble jurisdictional High Court in CIT vs Varun Shipping Co Ltd, [2011] 324 ITR 263 (Bom.) held that where the assessee borrowed certain amount for its business purpose and earn interest on unutilised portion of the loan, interest income is taxable as business income. Thus, since the funds are nothing but the funds required for running the shipping business, which has been invested by the assessee, and interest income is earned, therefore, we are of the considered opinion that income by way of interest arising from the said deposits is in the nature of business income and relates to the core shipping activity. As a result, ground No. 4 is partly allowed. In view of our aforesaid findings, the other aspects raised in ground No. 4 are rendered academic and therefore require no separate adjudication."*

31. Since the aforesaid issue in the additional ground no. 1of the assessee is squarely covered by the decision of ITAT in the case of the assessee itself as referred above, therefore, the following the decision of ITAT this additional ground of appeal of the assessee is allowed.

Ground No.4: Disallowance of deduction of administrative expenditure of Rs.11,51,75,710/- against income from other sources amounting to Rs.220,47,19,141/-:

32. Since we have allowed the additional ground no.1 of the assessee by treating the interest income as arising from core shipping activity after following the decision of the ITAT, therefore, this ground of appeal no. 4 become academic and no separate adjudication is required.

Ground No. 5: Disallowance of administrative expenses amounting to Rs.2,31,73,820/- against income from incidental shipping activities:

33. During the course of assessment the assessing officer noticed that assessee has claimed an expenditure of Rs.231,73,820/- against income from incidental activities. The assessing officer stated that allocation of administrative expenditure against incidental income is not allowable as per the proviso to sub-section (1) of Sec. 115VI, therefor, same was added back to the income of the assessee.

34. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the ground of appeal of the assessee.

35. During the course of assessment proceeding before us the ld. Counsel submitted that similar issue on identical fact has been decided in favour of the assessee by the DRP for assessment year 2014-15 as per the copy of the order placed in the paper book. The ld. Counsel further submitted that there is no requirement to consider allocation of administrative expenses u/s 115VI of the Act.

36. On the other hand, the ld. D.R supported the order of the lower authorities.

37. Heard both the sides and perused the material on record. We have perused the provision of Sec. 115VI of the Act the extract of the same is reproduced as under:

> *"115V-I (I) For the purposes of this Chapter, the relevant shipping income of a tonnage tax company means-*
>
> *(i) Its profits from core activities referred to in sub-section (2) -*
> *(ii) Its profits from incidental activities referred to in sub-section (5);*
>
> *Provided that where the aggregate of all such incomes specified in clause (ii) exceeds one-fourth per cent of the turnover from core activities referred to in sub-section (2), such excess shall not form part of the relevant shipping income for the purposes of this chapter and shall be taxable under the other provisions of this Act."*

After referring the aforesaid provision of Sec. 115VI the ld. DRP agreed that in respect of profit from incidental activities only the net receipt cannot be treated as income and reasonable allocation of administrative expenditure is required to be made. It is also stated in the finding of the DRP that assessee has shown the same on the basis of turnover, therefore, the same is reasonable. Considering the aforesaid fact and submission of the assessee that administrative expenses are required to be incurred for all activities of the assessee company, therefore, we consider that the same is required to be attributed on a reasonable basis to arrive at profit from the incidental activities in the case of the assessee in accordance with the Sec. 115VI of the Act. Therefore, we direct the AO to allow the claim of the assessee for allocating the administrative expenditure on the basis of turnover therefore this ground of appeal is allowed.

ITA No.482/Mum/2021 (Revenue's Appeal)

Ground No. 1 & 5: Treatment of 'commission of disbursement' as part of profit and turnover from core activity:

38. During the course of assessment the assessing officer noticed that assessee has earned commission @ 25% on the disbursement of

payment to shipping owners. After allowing deduction @ 20% the assessing officer treated the amount of Rs.649,98,758/- as not part of core activity of the assessee.

39. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) agreed with the assessee's claim that this income was integral part of the chartering activity and treated the same as income from core activities.

40. During the course of appellate proceedings before us the ld. Counsel submitted that similar issue on identical fact has been adjudicated by the ITAT for the assessment year 2008-09 in favour of the assessee.

41. On the other hand, the ld. D.R supported the order of lower authorities.

42. Heard both the sides and perused the material on record. The assessee sometimes takes vessels owned by third parties on a charter basis and further out-charters the same to third parties. In chartering activity, all the expense of the vessels are required to be borne by the ship owner but if the assessee incurs certain expenses on behalf of the vessels owner for managing the vessel, the same are reimbursed to it by the vessels owner along with commission. We have perused the decision of ITAT for A.Y. 2008-09 vide ITA No. 2550/Mum/2023 dated 14.03.2023 wherein the similar issue on identical fact was decided by the assessee. The relevant part of the decision is reproduced as under:

25. The receipt of Rs.6,05,004 is on account of commission on disbursement which the assessee earned over and above the disbursement amount paid to the agents, Captain, and crew of ships when the ship is abroad. As per the assessee, such disbursement was pursuant to an agreement with certain ship owners. We have already upheld the taxability of commission on disbursement under Chapter XII-G, which was forming part of the prior period income. Since this commission is also of a similar nature and that too pertaining to the post tonnage tax era, therefore, same forms part of core shipping activity."

43. Since the issue on hand being squarely covered by the decision of the ITAT in the case of the assessee itself as supra, therefore, following the decision of ITAT we don't find any merit in the ground of appeal of the revenue and the same stand dismissed.

Ground No.2: Treatment of 'Profit on bar and shop sales' as part of turnover from core activity:

44. During the course of assessment the assessing officer stated that profit on bar and shop sales is not related to the operation of ships, therefore, the assessing officer after allowing 20% of deduction of expenses for earning such income tax the balance 80% under the normal provision of the Act.

45. In the appeal, the ld. CIT(A) held that the profit on bar/shop sales are directly related to the incidental activities of the operation of the qualified ships, therefore, referring the decision of ITAT for assessment year 2009-10.

46. Heard both the sides and perused the material on record. We find that identical issue on similar fact has been adjudicated by the ITAT in the case of the assessee for assessment year 2008-09 vide ITA No. 2550/Mum/2023. The relevant extract of the decision is reproduced as under:

> *"29. As regards the profit on bar plus shop sales of Rs.783,659, we find that a similar profit was held to be directly related to the incidental activity of the operation of the qualified ship by the coordinate bench of the Tribunal in assessee's own case in The Shipping Corporation of India Ltd vs ACIT, in ITA No. 3546/Mum/2013, for the assessment year 2009-10, vide order dated 19/08/2015. As per the assessee, though the receipts have been referred to as incidental in the aforesaid order, what was meant was that it is a receipt from core activity. However, no order modifying the aforesaid findings by the coordinate bench is placed on record. Thus, respectfully following the judicial precedent in assessee's own case, the profit on bar plus shop sales are held as incidental activity of the operation of the qualified ship.*

47. Following the decision of the ITAT as discussed supra in the case of the assessee for A.Y. 2008-09 we don't find any merit in this ground of appeal of the revenue therefore the same stand dismissed.

Ground No. 3 & 6: Treatment of "Sundries core shipping' as part of profit and turnover from core activity:

48. The assessing officer has considered the sundry receipt as unrelated to the operations of qualifying ships, therefore, taxed 80% of such receipts under normal provision of the Act after allowing 20% towards expenditure incurred for earning such income.

49. The ld. CIT(A) held that such receipts are related to core shipping activity and same was treated as part of business receipt of the assessee.

50. We find that ld. CIT(A) held that such receipts are recovered from the container freight station and include various receipts including reserves on behalf of the customer which indicate that such receipts are related to the core shipping activity. Considering the aforesaid findings of the ld. CIT(A) we don't find any reason to interfere in the decision of ld. CIT(A) therefore, this ground of revenue stand dismissed.

Ground No. 4 & 7: Treatment of 'recovery of water charges' as part of profit and turnover from core activity:

51. The assessing officer has not treated recovery from water charges as part of profit on turnover from core activity.

52. However, the ld. CIT(A) held that same was part of shipping activity.

53. Heard both the sides and perused the material on record. Water charges recovery are made from the vessel owners towards supply of fresh water for use by crew staff which showed that this recovery is part

of the shipping activity therefore, we don't find any error in the decision ld. CIT(A), therefore, this ground of appeal of revenue are dismissed.

Ground No. 8 & 9: Credit of Foreign Taxes paid u/s 90 and 91 of Act:

54. During the course of assessment the assessing officer has not allowed the claim of credit of foreign taxes paid by the assesse on the ground that as per Sec. 91 of the Act credit of only income tax act paid in country with which no agreement exit can be allowed.

55. However, the ld. CIT(A) held that tax deducted in countries with whom India does not have a DTAA, the manner of determining the independent rate of tax has been specifically provided by explanation to Sec. 91 and the effective rate of tax determined by the AO was not proper, therefore, AO was directed to follow the same as per Sec. 91 of the Act.

56. Heard both the sides and perused the material on record. We find that similar issue on identical fact has been decided by the ITAT in the case of the assessee itself vide ITA No. 2944 & 2945/Mum/2010 for A.Y. 2007-08 on 21.03.2014 and the matter was restored to the file of the AO after referring the decision of the ITAT on the similar issue for assessment year 2005-06. We have perused the decision of ITAT in the case of the assessee for assessment year 2005-06 vide ITA No. 2944/Mum/2010 dated 21.03.2014. The relevant part of the decision is reproduced as under:

"13. We have heard the arguments of both the sides and also perused the relevant material available on records. It is observed that the claim made by the assessee for relief u/s 90 and 91 of the Act on account of foreign taxes paid outside India was disallowed by the A.O. as well as the ld. CIT(A) mainly on the ground that the same was not made by the assessee by filing a revised return. Reliance in this regard was placed by the authorities below on the decision of Hon'ble Supreme Court in the case of Goetze (India) Ltd. (supra). As held by the Hon'ble Bombay High Court in the case of CIT vs. Pruthvi Brokers and Shareholders P. Ltd. [2012] 349 ITR 336 (Bom) cited by the ld. Counsel for the

assessee, the assessee is entitled to raise any additional claims before the appellate authorities as per the decision of Hon'ble Supreme Court in the case of National Thermal Power Company Ltd. Vs. CIT [1998] 229 ITR 383 (SC) and the Hon'ble Supreme Court in the case of Goetze (India) Ltd. (supra) did not hold anything contrary to what was held by the previous judgment in the case of National Thermal Power Company Ltd. (supra) to the effect that even if a claim not made before the A.O., it can be made before the appellate authorities. It was held by the Hon'ble Bombay High Court that the power of the appellate authority to entertain such a claim has not been negated by the Hon'ble Supreme Court in the judgment in the case of Goetze (India) Ltd. And the Hon'ble Supreme Court in fact has made it clear that the issue in that case was limited to the power of assessing authority and that the judgment does not impinge on the power of the Tribunal u/s 254 of the Act. The ld. Counsel for the assessee has also submitted that the relevant details in support of its claim for relief u/s 90 and 91 of the Act were also furnished by the assessee before the ld. CIT(A) (page 157 of the paper book) but the same have not been considered by the ld. CIT(A). He has urged that this issue may therefore be restored to the file of the A.O. for deciding the same afresh on merit after necessary verification. Keeping in view the submissions made by the ld. Counsel for the assessee on this issue, we are of the view that the claim of the assessee for relief u/s 90 and 91 of the Act in respect of foreign taxes paid outside India deserves to be entertained and since the ld. D.R. has also not raised any objection in this regard, the matter should go back to the A.O. for deciding the same afresh after necessary verification. We order accordingly. Ground No. 5 & 6 of the assessee's appeal for A.Y. 2005-06 are accordingly treated as allowed for statistical purpose."

57. In view of the above facts and findings we consider that matter is required to be decided after necessary verification therefore we do not find any infirmity in the decision of ld. CIT(A). Therefore, this ground of appeal is allowed for statistical purpose.

58. In the result, the appeal of the assessee is partly allowed and the appeal of the revenue is dismissed.

Order pronounced in the open court on 28.02.2024

Sd/-	Sd/-
(Vikas Awasthy) Judicial Member	(Amarjit Singh) Accountant Member

Place: Mumbai
Date: 28.02.2024

Sr. PS: Rohit

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.

ORDER
आदेश
पंजीकृत ए. डी.
REGISTERED A.D.
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भारत सरकार सेवार्थ

To,
The Shipping Corporation
of India limited
10th Floor, Shipping House
245, Madam Cama Road
Nariman Point
Mumbai- 400021

48/-

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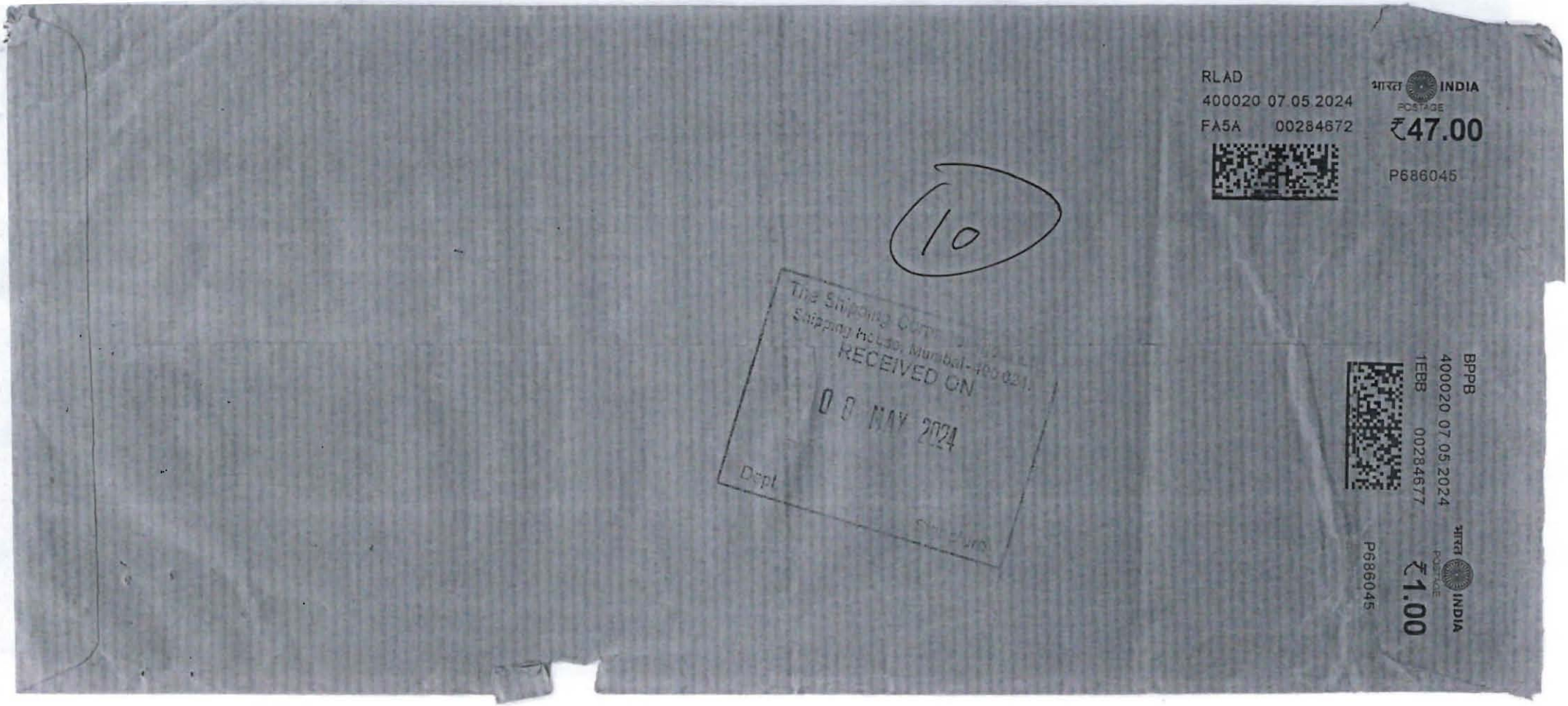
रजि.सं./REGD NO. A/C 1012
दिनांक/DATE 30.04.24
केंद्रीय सदन भवन
CENTRAL BLDG., 7/5/24
मुंबई/MUMBAI-400 020.

आयकर अपीलीय अधिकरण
Income-Tax Appellate Tribunal
101 Mahakshi Road, Mumbai-400 020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