

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'J' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.3040/Mum/2016
(Assessment Year :2010-11)**

M/s. Varun Global Ltd (Successor to Varun Shipping Company Limited) Laxmi Building 6, Shoorji Vallabhdas Marg Ballard Estate Mumbai- 400 001	Vs.	Dy. Commissioner of Income Tax-5(3) Aayakar Bhavan Mumbai – 400 020
PAN/GIR No.AACV1658C		
(Appellant)	..	(Respondent)

**ITA No.3205/Mum/2016
(Assessment Year :2010-11)**

The Dy.Official Liquidator Govt. of India, Ministry of Corporate Affairs, O/o. the Official Liquidator High Court of Bombat 5 th Floor, Bank of India Building Mahatma Gandhi Road Fort, Mumbai - 400023	Vs.	M/s. Varun Global Ltd (Successor to Varun Shipping Company Limited) Laxmi Building 6, Shoorji Vallabhdas Marg Ballard Estate Mumbai- 400 001
PAN/GIR No.AACV1658C		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri Manoj Kumar
Date of Hearing	12/01/2023
Date of Pronouncement	31/01/2023

आदेश / ORDER

PER M. BALAGANESH (A.M):

These are cross appeals in ITA No. 3040/Mum/2016 & 3205/Mum/2016 for A.Y.2010-11 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-10, Mumbai in appeal No.CIT(A)-10/DCIT-5(3)/165/2014-15 dated 29/01/2016 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) r.w.s. 144C(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 03/04/2014 by the Id. Dy. Commissioner of Income Tax, Circle-5(3), Mumbai (hereinafter referred to as Id. AO).

2. None appeared on behalf of the assessee. On perusal of the earlier order sheet notings we find that on 17/11/2022 Shri Suresh Kumar, Sr. Assistant from office of Official Liquidator appeared before the Bench and informed that assessee company M/s. Varun Global Ltd. (M/s. Varun Shipping Company Ltd. is merged with M/s. Varun Global Ltd.) is under liquidation. We find that the revenue had filed Revised Form No. 36 duly impleading the Official Liquidator on record. Infact the revenue had also duly served the notice of hearing on the Official Liquidator through the Id. AO. But we find that the Official Liquidator had not impleaded himself to represent the assessee company in the appeal filed by the assessee by filing Revised Form No. 36. Since the company is under liquidation and Official Liquidator did not ensure the presence before this Bench at the time of hearing on 12/01/2023, we deem it fit to dismiss the appeal of the assessee as not maintainable in the present format. We find that no further evidences had been submitted by the Official Liquidator on behalf of the assessee company to controvert the findings given by the Id.

CIT(A). With regard to revenue's appeal, it is clear that once an income is offered on presumptive basis under tonnage tax scheme, there cannot be any disallowance of expenses u/s 14A of the Act. In fact this issue has been decided in favour of the assessee by this tribunal in assessee's own case for the A.Y. 2008-09 which has been taken note of by the Id. CIT(A) while granting relief to the assessee, both under normal provisions of the Act as well as in the computation of book profits u/s 115JB of the Act. In view of this, we do not deem it fit to interfere in the order passed by the Id. CIT(A). Accordingly, the appeal of the assessee is dismissed and appeal of the Revenue is dismissed.

3. In the result, appeal of assessee is dismissed and appeal of the Revenue is dismissed.

Order pronounced on 31/01/2023 by way of proper mentioning in the notice board.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 31/01/2023
KARUNA, sr.ps

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai