

IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI
BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)
AND
SHRI OMKARESHWAR CHIDARA (ACCOUNTANT MEMBER)

I.T.A. No. 169/Mum/2021
Assessment Year: 2010-11

The Shipping Corporation of India Limited 245, Shipping House, Madam Cama Road, Nariman Point, Mumbai-400021 PAN:AAACT1524F	Vs.	Additional Commissioner of Income Tax (L.T.U.) 29 th Floor, Tower-1 World Trade Centre, Cuffe Parade, Mumbai- 400006
(Appellant)		(Respondent)

Appellant by	Shri Nitesh Joshi
Respondent by	Shri Ritesh Misra, CIT D.R.

Date of Hearing	17.07.2025
Date of Pronouncement	30.09.2025

ORDER

Per: Smt. Beena Pillai, J.M.:

The Present appeal filed by the assessee arises out of an order dated 28/02/2024 passed by this tribunal in miscellaneous application number 211/MUM/2024 in the above referred appeal.

2. It is noted that vide order passed dated 25/11/2024 in the miscellaneous application, this *Tribunal* noted that Ground No.3 of the assessee's appeal was wrongly held to the academic in nature and inadvertently not adjudicated while passing the original order. This *Tribunal*, accordingly by an order passed in miscellaneous application No. 211/Mum/2024 recalled its order for limited purpose to adjudicate Ground No.3, that reads as under:

“3.0 GROUND NO. 3

The CIT(A) has erred in law and on facts and in circumstances of the case in excluding following receipts aggregating to 1,75,18,04,418/- while calculating total turnover from core activities thereby working out adjustment of 0.25% of turnover of core activities of ships at 43,79,511/- (175,18,04,418 x 0.25%)

<i>Particulars</i>	<i>Amount (Rs.)</i>
<i>Reimbursement of overhead for managed vessel</i>	<i>38,17,66,143</i>
<i>Sundry receipts</i>	<i>14,48,80,660</i>
<i>Profit on sale of vessels</i>	<i>122,51,29,951</i>
<i>Profit on sale of other assets</i>	<i>27,664</i>
<i>Total</i>	<i>1,75,18,04,418</i>

”

Brief facts of the case that led to the issue are as under:

3. The assessee submitted that it is a public sector undertaking established in 1961, wherein Government of India has 80.1% of the shareholding. It is submitted that the assessee is engaged in the operation of qualified ships world over and is one of the largest shipping companies of the country, contributing to the highest cargo movement through water transport. It is submitted that since assessment year 2005-06, the assessee opted for being assessed under chapter XII G of the Act, known as the tonnage scheme. The assessee has been

consistently eligible to be assessed under the tonnage scheme under section 115 VB of the act.

3.1 The Ld.AO observed that the assessee received sundry receipts as under:

Core Shipping activity - ₹ 17,76,61,058/-

Incidental Activity - ₹10,65,83,501/-

3.2 The Ld. AO noted that the assessee offered ₹10,65,83,501/- under the head, incidental activity in the computation sheet. As regards the core shipping activities, details of sundry receipts to the extent of ₹7,76,61,058/- were called for by the Ld. AO. The assessee in respect of the same submitted as under:

<i>Particulars</i>	<i>Core Shipping</i>
<i>Commission on disbursements [receipts]</i>	<i>1,03,153</i>
<i>Insurance + P & I claims</i>	<i>8,37,37,661</i>
<i>House Rent ownerships flat</i>	<i>1,26,74,819</i>
<i>Rent on furniture</i>	<i>56,604</i>
<i>Co's bus services</i>	<i>130</i>
<i>Liquated Damages (Dry docks)</i>	<i>4,55,27,987</i>
<i>Profit on Bar + Shop sales</i>	<i>91,105</i>
<i>Refund of Director's fees</i>	<i>21,83,638</i>
<i>Application Money-Right to info Act</i>	<i>2984</i>
<i>Total Sundries</i>	<i>17,76,61,058</i>

3.3 Ld. AO called upon assessee to show cause as to why the sundry receipts may not be taxed under the normal provisions of the Act. The assessee submitted a response vide submission dated 08/11/2012 wherein the assessee relied on the coordinate of this *Tribunal* in assessee's own case for assessment a 2007-08. However, the Ld.AO relied on the reasoning in scrutiny order for assessment 2007-08 and 2009-10 to reject submissions of the assessee.

3.4 The Ld.AO observed that the tonnage tax scheme is applicable for the income earned from the operation of qualified ships, and that too from the activities which have been listed as CORE ACTIVITY of the operation of ships. The Ld. AO was of the view that the receipts (supra) are earned from sources unrelated to qualified ships and therefore these are taxable under normal provisions of the Act.

3.5 The Ld.AO himself did not make any adjustment in respect of Insurance & PI claims as well as house rent received from ownership fact amounting to Rs.9,64,12,610. In respect of the balance Rs.8,12,48,448/-, allowed 20% reduction and computed that disallowance at Rs.6,49,98,758/-.

Aggrieved by the order of the Ld.AO assessee had filed appeal before the Ld.CIT(A).

4. The Ld.CIT(A) noted that in respect of insurance and P& I claim, house rent received, the Ld.AO granted deduction for expenses against these receipts and since no positive amount was left, the Ld.AO did not tax it under the normal provisions of the act. The Ld.CIT(A) however noted that the core issue of whether all the receipts forms part of the core business activity would have to be still established by the assessee.

4.1 The Ld.CIT(A) thus called upon the assessee once again to establish as to whether the receipts reproduced above form part of its turnover from core shipping business or not.

4.2 The assessee filed its submission dated 20/12/2012 that was also placed before the assessing officer. It also filed submission dated 18/12/2013 before the Ld.CIT(A) containing

various details in respect of the receipts and expenses in connection with the same. The assessee also furnished breakup of sundry receipts placed at page 145 of the paper book.

5. The Ld.CIT(A) after considering the same date with the receipts by observing as under:

Sr. No.	Particulars	Decision
1	Commission on disbursements	<i>The assessee claims that this income which is in the nature of commission on disbursements of funds to the crew/Captain of the chartered ships and that it is an integral part of the chartering activity and hence should be treated as income from core activities. The submissions of the assessee have force and the AO is directed to treat it as part of turnover from core activities.</i>
2.	Insurance + P&L claims	<i>The submissions of the assessee have been considered and it is held that there is no merit in them. The receipts under 'Insurance + P & I claims' is not part of turnover from core shipping activities but it is incidental to the business. Therefore, the sums have to be excluded from the computation of turnover of core activities.</i>
3.	House rent	<i>The submissions of the assessee have been considered and it is held that there is no merit in them. The receipts from the employees towards 'House rent' is not part of turnover from core shipping activities and it has to be taken out.</i>
4.	Rent on furniture	<i>The submissions of the assessee have been considered and it is held that there is no merit in them. The income from the 'rent on furniture' is not related to core activities and it has to be taken out from the turnover of core shipping activities.</i>
5	Company bus services	<i>The submissions of the assessee have been considered and it is held that there is no merit in them. The income from the 'Company bus service' is not part of turnover from core shipping activities and it has to be taken out from the turnover of core shipping activities.</i>

6	<i>Liquidated damages (Dry Docks)</i>	<i>The assessee claims that these receipts are received as compensation from the shipyard or maintenance agency for any delay or for not carrying out repairs within the agreed stipulated time etc. It is also held that the damages are received by the assessee as part of 'Law of Tort' and not as part of the return of service charges. Therefore, there is no infirmity in the order of the AO in this regard treating it as outside the turnover from core activities.</i>
7.	<i>Sundries core Shipping</i>	<i>The assessee's claim is that these are recoveries from the container freight station and include various receipts including recoveries on behalf of the customer. It is seen from the details filed that the receipts are related to the core shipping activity and therefore, the action of the AO in treating it as non-core activity is not proper. The AO is directed to include the same.</i>
8	<i>Profit Bar + shop sales</i>	<i>It is seen that it has been held by the ITAT in the case of the assessee for AY 2009-0 10 that the profits on Bar/shop sales are directly related to the incidental activity of the operation of the qualified ships. Respectfully following the same, the AO is directed to exclude this income from the turnover of core activities.</i>
9.	<i>Refund of Director's fees</i>	<i>It is seen that even in the order of ITAT in the case of the assessee for AY 2009-0 10 it had been held that the Refund of Directors Fee is related to the incidental activity of the operation of the qualified ships. However, in the appellate proceedings before the undersigned, different facts have been mentioned. It is claimed that the assessee has a Joint Venture ('JV') with SAIL Ltd. and Forbes Ltd. Some of the Directors of the Company are also on the board of the JVs. These directors receive sitting fees and other emoluments from the JVs. As per terms of employment between the directors and Company, the directors sitting fees and other payments are recovered back by the Company. These recoveries were thus made from Chairman & Managing Director and Director (Finance). From these facts, it is clear that the Refund of Directors Fee has no relation to the</i>

		<i>shipping activity of the assessee. Therefore, the ground of appeal taken by the assessee is rejected on this account. This turnover is required to be taken out of the turnover of core activities also.</i>
10	<i>Contribution to Employees New PRMS</i>	<i>The assessee submits that at the time of retirement, if its employees, who are member of old Post-Retirement Medical Scheme' (PRMS), wish to become members of new PRMS, a one-time contribution is taken from employee. It is clear from the above that this receipt has nothing to do with the core shipping activity of the assessee. Therefore, the ground of appeal of the assessee to this extent is rejected.</i>
11	<i>Application money-RTI Act</i>	<i>The Assessee has claimed that it receives various queries under the RTI Act and the application fee is received from the general public for the same. This receipt has nothing to do with the shipping activity and therefore, this part of the ground of appeal is dismissed. It is noted that in AY 2009-10, the honourable ITAT had also rejected a similar claim of the assessee. This sum has to be reduced from the turnover of core activities.</i>
12	<i>Recovery of water charge</i>	<i>These recoveries are made from the vessel owner toward supply of fresh water for use by the crew staff. This recovery is part of the shipping activity and similar in nature to the 'commission on disbursements. The AO is directed to include this amount in the turnover of core activities.</i>

6. The Ld.CIT(A) accepted commission on disbursement, sundries core shipping, recovery of water charge to be forming part of the turnover from core activities. In respect of the remaining items being, Insurance & P&I claims, Rent on furniture, House Rent, Company Bus Service, Liquidated Damages (dry dock), Profit on bar and shops sales, Refund of Directors Fee, Application money-right to information Act and Contribution to employees (new PRMS), the Ld.CIT(A) was of the

opinion that these must be taxed under normal profits as they do not form part of the core activity.

Aggrieved by the order of the Ld.CIT(A), assessee preferred appeal before this *Tribunal*.

7. The Ld.AR submitted that, the assessee has been managing vessels belonging to the Government of India to ply between the Indian mainland and the Andaman and Nicobar Islands. It is submitted that for managing these vessels, the assessee received income by way of remuneration of Rs.33,66,30,508/- and reimbursement of overheads for managed vessels at Rs.38,17,66,143/-. The assessee submitted that, as per rule 11R(iii) of the rules, the remuneration received for managed vessels is treated as income from incidental activities, and reimbursement of overheads for managed vessels was treated as part of profits from core activities and accepted by the Ld.AO without any adjustment.

7.1 The Ld.AR submitted that, the Ld.AO once accepted reimbursement of overheads for managed vessels was treated as part of profits from core activities, the view of Ld.CIT(A), to tax it separately is not correct.

7.2 Be that as it may, the Ld.AR at the outset submitted that coordinate bench of this *Tribunal* in preceding assessment years, had an opportunity to consider the above receipts except receipt from held all other receipts to be incidental activities related to the core business of shipping, except receipt arising out of Profit on bar and shops sales and Application money-right to information Act.

7.3 He placed reliance on *the original order dated 28/02/2024* passed by coordinate bench of this *Tribunal* in assessee's own case for the year under consideration as well as *for assessment year 2008-09 in ITA no.2550 & 2130/Mum/2012 vide order dated 14/ 03/2023*, wherein receipts arising out of Insurance and P& I claims & House rent and Company Bus services, stands covered.

7.4 The Ld.AR concedes that receipt arising out of Profit on bar and shops sales has been held to be not from the core activity by coordinate bench of this *Tribunal* in assessee's own case *for assessment year 2008-09 in ITA no.2550 & 2130/Mum/2012 vide order dated 14/ 03/2023*. And receipt arising out of Application money-right to information Act has been held to be not from the core activity by coordinate bench of this *Tribunal* in assessee's own case for the year under consideration.

8. On the contrary, the Ld.DR relied on the orders passed by the authorities below.

We have perused the submissions advanced by both sides in light of records placed before us.

9. It is noted that the issue raised in Ground no.3 has been already considered by coordinate bench of this *Tribunal* in assessee's own case as noted herein above.

9.1 The Ld.AR submitted that Rent on furniture, Liquidated Damages(dry dock),Refund of Directors Fee, and Contribution to employees(new PRMS) has been considered by *coordinate bench of this Tribunal in original order for the year under consideration vide dated 28/02/2024, while considering Ground No.2 in para 12 to 18.*

9.2 The same view is adopted *mutatis mutandis* for deciding the receipts pertaining to Rent on furniture, Liquidated Damages(dry dock),Refund of Directors Fee, and Contribution to employees(new PRMS) in Ground no.3.

10. In respect of Insurance & P&I claims, House Rent, Company Bus Service, has been considered by *coordinate bench of this Tribunal in original order for the year under consideration vide dated 28/02/2024, while considering Additional Ground No.3 in para 20 to 25.*

11. The same view is adopted *mutatis mutandis* for deciding the receipts pertaining to Insurance & P&I claims, House Rent, Company Bus Service in Ground no.3.

12. In respect of receipt from Profit on bar and shops sales, it is noted that the same has been considered to be held to be not from the core activity by coordinate bench of this *Tribunal in assessee's own case for assessment year 2008-09 in ITA no.2550 & 2130/Mum/2012 vide order dated 14/ 03/2023 in para 29.* The said view has been followed while considering identical receipt in assessee's own case *for assessment year 2009-10 in ITA No. 3117 & 3546/Mum/2013 vide order dated 19/08/2015 in para 10.2.*

13. Respectfully following the same, the receipt from Profit on bar and shops sales is directed to be taxed under normal profits as they do not form part of the core activity.

14. In respect of receipt from Application money-right to information Act, it is noted that the same has been considered to be held to be not from the core activity by the *coordinate bench of this Tribunal in original order for the year under consideration vide*

dated 28/02/2024, while considering Ground No.2 in para 12 to 18,

15. The same view is adopted *mutatis mutandis* for deciding the receipts pertaining to Application money-right to information Act in Ground no.3 are directed to be taxed under normal profits as they do not form part of the core activity.

Accordingly, Ground no.3 raised by the assessee stands partly allowed.

In the result the appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 30/09/2025

Sd/-

(OMKARESHWAR CHIDARA)
Accountant Member

Sd/-

(BEENA PILLAI)
Judicial Member

Mumbai:

Dated: 30/09/2025

Poonam Mirashi,
Stenographer

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Mumbai