

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1866 OF 2009

AND

INCOME TAX APPEAL NO.1867 OF 2009

AND

INCOME TAX APPEAL NO.1868 OF 2009

Federal Express Corporation

..Appellant.

V/s.

Asstt. Director of Income Tax & Anr.

..Respondents.

Mr. Porus Kaka with Chirag Mody and Ms. Anuska Sarada i/b. DSK legal for appellant.

Ms. Suchitra Kamble with P.S. Sahadevan for respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 23RD SEPTEMBER, 2009.

P.C. :-

1. Heard learned counsel for the appellant and the revenue. Admit on the following substantial questions of law :-

- A. Whether the Tribunal erred in holding that profits of the appellant attributable to the transportation of cargo in the international traffic through aircrafts belonging to other airlines and inland transportation connected with such transportation would not be covered by Article 8 of the DTAA ?
- B. Whether the Tribunal erred in holding that commentaries on international tax law need not be resorted to while interpreting the expression "profits derived from the operation of aircraft in international traffic" in Article 8 of DTAA ?

2. So far as question Nos.3 & 4 are concerned, they are different shades of the same question.

3. Mr. Sahadevan waives service for respondents.

(J.P.DEVADHAR, J.)

(V.C.DAGA, J.)