IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.03.2015

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The Honourable **Mr.JUSTICE R.SUDHAKAR**
and
The Honourable **Mrs.JUSTICE S.VIMALA**

Tax Case (Appeal) Nos.357 & 358 of 2008

The Commissioner of Income Tax,
Chennai ... Appellant

Vs.

M/s.Colorplus Fashions Pvt. Ltd.,
C-10 Industrial Estate,
Ambattur, Chennai – 600 058 ... Respondent

APPEAL under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, dated 09.02.2007 in ITA.Nos.1652 & 1775/Mds/05 for the assessment years 2002-03 and 2003-04.

For Appellant : Mr. T.Ravikumar
Standing Counsel for Income Tax

For Respondent : Mr.R.Vijayaraghavan

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COMMON JUDGMENT

(The order of the Court was made by
R.SUDHAKAR, J.)

The Revenue has filed the above Tax Case (Appeals) as against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, dated 09.02.2007 in ITA.Nos.1652 & 1775/Mds/05 for the assessment years 2002-03 and 2003-04 and the same were admitted by this Court on the following questions of law:-

> "1. Whether on the facts and circumstances of the case, the Tribunal was right in allowing deduction under Section 80IB when the assessee does not manufacture any goods by itself, but gets the same manufactured by others on job work basis ?
>
> 2. Whether in the facts and circumstances of the case, the Tribunal was right in allowing deducting under Section 80IB when the assessee only does the process of washing, pressing and packing which do not amount to manufacture? And
>
> 3. Whether on the facts and circumstances of the case, an assessee who gets the work done by a job worker can claim to be an industrial undertaking ?"

2. The assessment in these cases relate to the assessment years 2002-03 and 2003-04. The assessee is engaged in the manufacture and sale of readymade garments. The Assessing Officer completed the assessment under Section 143(3) of the Income Tax Act, 1961. While completing the assessment, the Assessing Officer denied the benefit claimed under Sections 80IA/80IB of the Income

Tax Act. Aggrieved by the same, the assessee filed appeal before the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) following assessee's own case in respect of the earlier assessment year, partly allowed the appeals. Aggrieved by the same, both the Assessee and the Revenue filed appeals before the Income Tax Appellate Tribunal. The Income-Tax Appellate Tribunal answered the issues in favour of the assessee and partly allowed the appeals filed by the Revenue. Aggrieved by the same, the Revenue has filed the present Tax Case Appeals raising the above questions of law.

3. Learned Standing Counsel appearing for the Revenue fairly stated that the issue involved in this case is squarely covered by a decision of this Court in the case of **The Commissioner of Income Tax, Coimbatore vs. M/s. Elgi Ultra Industries Limited, Coimbatore** in Tax Case (Appeal) Nos.451 of 2006 and 218 and 219 of 2007, dated 10.08.2012, reported in **(2012) 210 TAXMAN 204 (Madras)**.

4. It is also pertinent to note that the Tribunal followed the earlier Tribunal's order, namely, M/s.Elgi Ultra Industries Limited, stated above and against that order the Revenue filed the appeal before this Court. In that matter, this Court answered the question in

favour of the assessee and allowed the case.

5. In the light of the above, following the above decision of this Court cited supra, the questions of law raised herein are answered in favour of the assessee and against the Revenue. Accordingly, both the Tax Case Appeals are dismissed. No costs.

Index:Yes/No (R.S.,J.) (S.V.,J.)
Internet:Yes/No 02.03.2015

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To

1.The Income Tax Appellate Tribunal, Bench A, Chennai

2.The Commissioner of Income Tax (Appeals) III, Chennai

3.The Asst. Commissioner of Income Tax, Company Circle-I(3), Chennai.

R.SUDHAKAR,J.
AND
S.VIMALA,J.

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T.C.(A) Nos.357 & 358 of 2008

02.03.2015