IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 8/6/2016

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice D.Krishnakumar

Tax Case Appeal No.749 of 2009

The Commissioner of Income Tax - III
Coimbatore. ... Appellant

Vs

M/s.Shreejee International
20 Kumarananthapuram
Tirupur. ... Respondent

Prayer: Appeal filed against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 30/5/2005 in ITA No.1565/Mds/2005 for the Assessment year 1994-95 against the order of Income Tax Appellate Tribunal, Madras 'B'Bench in I.T.A.No.1565/Mds/97 dated 27.9.2004 for the Assessment year 1994-95 against the order of Commissioner of Income Tax (Appeals) Coimbatore dated 23.4.97 in I.T.A.No.1059-C/96-97 for the assessment year 1994-95 against the order of Dy. Commissioner of Income Tax, Special Range II, Coimbatore in PAN/GIR.NO.FV-4776 dated 4.3.97 for the assessment year 1994-95.

For appellant : Mr.T.R.Senthil Kumar
Senior Standing Counsel
for Income Tax.

For respondent : No appearance

J U D G M E N T

(Judgment of the Court was made by S.Manikumar,J)

This Appeal has been filed against the order of the Income Tax Appellate Tribunal, 'D' Bench, Madras, dated 30/5/2005.

2. The substantial questions of law raised in the instant appeal are:-

"1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding in an order on the assessee's Miscellaneous Petition for rectification of the original order, that 90% of the receipts by way of designing and embroidery charges were not to be reduced from the profits, exceeding the powers conferred on it under Section 254 (2) of the Income Tax Act, which would not extend to reverse the earlier findings on debatable questions of law?

2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that 90% of designing and embroidery charges ought not to be reduced from the 'profits of business' for the purpose of computation of deduction under Section 80HHC, disregarding the plain wording of Explanation (baa) to Section 80 HHC of the Income Tax Act, as per which 90% of any receipts by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature included in the profits has to be reduced from the 'profits of business'?

3. Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for Income Tax submitted that the tax implication in the instant appeal is less than the ceiling limit fixed by the Circular bearing No.21 of 2015, dated 10/12/2015. He further submitted that as per the Circular, Tax Appeals have been instructed to be withdrawn, subject to the matters covered under the Circular.

4. Placing on record the above submissions, while dismissing the Tax Case Appeal No.749 of 2009, as withdrawn, substantial questions of law raised are left open. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

mvs.

To

1. The Income Tax Appellate Tribunal
Madras D Bench
Chennai

2. The Commissioner of Income Tax III
Coimbatore

3. The Income Tax Appellate Tribunal
Madras B Bench, Chennai

4. The Commissioner of Income Tax (Appeals)
Coimbatore

5. The Deputy Commissioner of Income Tax, Special Range II
Coimbatore

6. The Assistant Registrar
Income Tax Appellate Tribunal
III Floor, Rajaji Bhavan, Besant Nagar, Chennai-90

1 cc to Mr.T.R. Senthilkumar, Advocate, Sr. 30741

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