IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.1.2017

C O R A M

THE HON'BLE MR. **JUSTICE HULUVADI G. RAMESH**
AND
THE HON'BLE Dr.**JUSTICE ANITA SUMANTH**

Tax Case (Appeal) Nos.517 and 518 of 2008

Commissioner of Income Tax,
Chennai. ... Appellant

Vs

M/s.Shasun Chemicals & Drugs Ltd.,
3, Doraisamy Road,
T.Nagar, Chennai 600 017. ... Respondent

Prayer:- Appeal filed under Section 260A of the Income Tax, 1961, against the Order of the Income Tax Appellate Tribunal, Chennai 'C' Bench, dated 6.7.2007, in I.T.A.Nos.553/Mds/2006 and 13/Mds/2006.

For Appellant : Mr.J.Narayanasamy
Standing Counsel

For Respondent : Mr.J.Balachandren

COMMON J U D G M E N T

(Judgment of the Court was delivered by Dr.Anita Sumanth, J.,)

The above Tax Case Appeals are preferred by the Revenue under Section 260A of the Income Tax Act, 1961, calling in question the correctness of the order, dated 6.7.2007, passed by the Income Tax Appellate Tribunal, Chennai, in I.T.A.Nos.553/Mds/2006 and

13/Mds/2006.

2. The following questions of law, have been framed for consideration, at the time of admission of the appeal:-

> *"(i) Whether in the facts and in the circumstances of the case, the Tribunal was right in allowing deduction under section 80HHC on the basis of book profits under section 115JB even though the eligible profits under section 80HHC was Nil as per normal computation?*
>
> *(ii) Whether in the facts and in the circumstances of the case, the Tribunal was right in holding that the expenditure incurred on issue of shares is eligible to be amortized under section 35D of the Income Tax Act?*
>
> *(iii) Whether in the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled to 25% depreceiation on electrical installations, when the maximum depreciation allowable on furniture and fittings during the relevant period was only 15%?"*

3. Heard Mr.J.Narayanasamy, learned Standing Counsel appearing for the appellant and Mr.J.Balachandren, learned counsel appearing for the assessee.

4. The first substantial question of law is covered in favour of the assessee by a judgment of the Supreme Court in the case of *CIT v. BHARI INFORMATION TECH. SYS. P. LTD*. ((2012) 340 ITR 593). Substantial question of law No.2 is covered in favour of the assessee by an order of this court in the case of the same assessee for the previous

assessment year reported as *Shasun Chemicals and Drugs Ltd. V. CIT* ((2016) 388 ITR 1). Accordingly, the same are answered in favour of the assessee and against the Revenue.

5. The third question of law relates to the entitlement to depreciation on electrical installations. The question as to whether electrical installations would fall under the category of furniture and fittings or plant and machinery has been decided by a Division Bench of the Bombay High Court in *Commissioner of Income Tax v. Hoechst Dyes and Chemicals P. Ltd*. ((1999) 240 ITR 1). The Bench concludes that electrical installations, wiring for lighting, installation of call bell indicators/buzzers/door locks, etc., would qualify as furniture and fittings entitled to depreciation at the rate of 10%.

6. In the present case, the assessing officer has granted depreciation of 15% as against 25% claimed by the assessee. Incidentally, we note that as per the relevant appendix relating to assessment year 2002-03, the rate of depreciation would be 10% for electrical installations inside the premises and 15% in case where it is utilized in specific locations. The electrical installations, in the present case, have been utilised inside the factory which is not one of the specified locations. The entitlement would thus be 10% as against 15% granted by the assessing officer. However, in view of the fact that all authorities have granted 15% and the substantial question of law raised

is also to the same effect, we do not propose to interfere with the same. The third substantial question of law, thus, stands answered in favour of the Department and against the assessee. The appeals are partly allowed. No costs.

(H.G.R.,J) (A.S.M.,J)
25th January 2017

Index: Yes / no
Internet: Yes/no
ssk.

HULUVADI G. RAMESH, J.,
AND
DR.ANITA SUMANTH, J.,

ssk.

T.C.A.No.517 and 518 of 2008

25.1.2017