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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 1182/2017 & CM No. 46890-91/2017

ANAND KUMAR ..... Appellant

Through: Mr. K.V.S. Gupta, Mr. Harish K. Tyagi and Mr. Kapil Kumar, Advs.

versus

COMMISSIONER OF INCOME TAX-XI, & ANR...... Respondents

Through: Mr. Zoheb Hossain, Sr. Standing Counsel

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A.K. CHAWLA

O R D E R

% **21.12.2017**

The assessee by this appeal under Section 260A of the Income Tax Act, 1961 claims to be aggrieved and relied upon the judgment of this Court in CIT Vs. Shri Ram Honda Power Equipment Ltd. & Ors. (2007) 289 ITR 475.

The facts briefly are that the assessee is in the business of garment export and in its returns for the AY 1998-99 declared income which, *inter-alia*, calculated at Rs. 7,66,512/- other interest on FDRs pledged with bank. The assessee claimed the benefit citing Section 80HHC of the Income Tax Act. The authority/AO/Appellate Commissioner Tribunal declined the claim having regard to the plain language of the provision.

The assessee contends that while there cannot be any dispute with respect to part business income, the claim of benefit of Section

80HHC was justified having regard to the decision in Shri Ram Honda Power Equipment Ltd. (Supra). It was contended that in the said decision the Court recognized that (any income that could be attributed on account of their proximity to the activity which is the subject of the deduction is also to be treated as part of such activity. Since interest was derived from deposits which are kept by the bank out of the proceeds for facilitating advance and credits, they had clearly stated nexus with the export activity itself. This Court is of the opinion that the decision of the ITAT does not call for any interference as to precise the meaning of "derived by" which is the precise phraseology used by 80HHC; the decision in Commissioner of Income Tax Vs. ELT, 2009 (241) 326 (SC) is decisive. The income by way of interest cannot be characterised as derived from the business activity of garment export. No substantial question of law arises.

The appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

A.K. CHAWLA, J

DECEMBER 21, 2017
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