IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1076 OF 2008

M/s. S.K. Silks ....Appellant
V/s.
The Asstt. Commissioner of
Income-tax 14(3) ....Respondent

Dr. Daniel I/by. Mr. V.S. Hadade, Advocate for the appellant.

Coram : M.S. Sanklecha, &

Sandeep K. Shinde, JJ.

Tuesday, 14th August, 2018.

P.C. :

1. This Appeal under Section 260 of the Income-Tax Act, 1961 (the Act) was admitted on 22nd September, 2008 on numerous substantial questions of law.

2. Dr. Daniel, Learned Counsel appearing for the appellant, on instructions, states that the appellant now seeks to urge only the following substantial question of law for our consideration :

> *"i). On the facts and in the circumstances of the case, whether the Income-tax Appellate Tribunal was right in law in confirming the CIT (A)'s order and thereby denying the benefit of 80HHC deduction in respect of profit realized on the transfer of EPB entitlement passbook*

scheme ?"

3. This Appeal relates to Assessment Year 2003-04. At the time of admission, the respondents had waived service. However, none appears for the Revenue today.

4. We find that the substantial question stands concluded against the Revenue and in favour of the appellant-assessee by the decision of the Supreme Court in **M/s. Topman Exports Versus. Commissioner of Income Tax, Mumbai, (2012) 342 ITR 49**. Dr. Daniel, states that the appellant herein was a party to the appeals listed before the Apex Court in *Topman Exports* (supra) relating to Assessment Year 2004-05 on identical question.

5. In the above view, substantial question of law is answered in the negative i.e. in favour of the appellant and against the Revenue.

6. Appeal allowed in terms of the decision of the Apex Court in *M/s. Topman Exports* (supra).

(SANDEEP K. SHINDE, J) **(M.S. SANKLECHA, J)**

Neeta Shailesh Sawant

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