IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case (Appeal) Nos.2132 to 2134 of 2008

The Commissioner of Income Tax,
Coimbatore. ... Appellant in all the appeals

vs.

M/s.Shiva Tex Yarn Ltd., ... Respondent in all the appeals

Tax Case Appeals filed under Section 260-A of the Income Tax Act, 1961 against the common order of the Income-Tax Appellate Tribunal, Madras "D" Bench, dated 10.11.2005 in ITA No.1953/Mds/2003, ITA No.1954/Mds/2003 and ITA No.1955/Mds/2003, for the assessment years 1995-96, 1996-97 and 1997-98.

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For Appellant : M/s.K.G.Usharani for Mr.T.R.Senthilkumar in all the appeals

For Respondent : Mr.R.Venkatanarayanan in all the appeals

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COMMON JUDGMENT

[Delivered by T.S.Sivagnanam, J.]

These appeals, filed by the Revenue, are directed against the common order passed by the Income Tax Appellate Tribunal, Madras "D" Bench (the 'Tribunal' for brevity), in ITA No.1953/Mds/2003, ITA No.1954/Mds/2003 and ITA No.1955/Mds/2003, for the assessment years 1995-96, 1996-97 and 1997-98.

2.The Appeals have been admitted, vide order dated 27.04.2009, on the following Substantial Questions of Law:

> *"1.Whether on the facts and in the circumstances of the case the Tribunal was right in law in holding that the Additional Financial charges could be shown for Income Tax purposes on receipt basis though the assessee has accounted for the same in the regular accounts on accrual basis and therefore, not includable in the taxable business income ignoring the special provision contained in Section 43D of Income Tax Act, 1961 and the rules made there under specifying the class of assesses and category of*

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bad and doubtful debts in respect of which exclusion could be made?

2.Whether on the facts and in the circumstances of the case the Income Tax Tribunal was right in deleting the additions made under accrued overdue charges on non productive assets especially when as per Section 145(1) all accrued receipts and all accrued expenses are to be considered while determining the profits and gains of business?

3.Whether on the facts and in the circumstances of the case, the order of the Income Tax Tribunal is proper especially when a distorted picture of computation of profit is arrived at which is contrary to the judgement of the Supreme Court in the case of CIT vs. British Paints India Limited reported in 188 ITR Page 44?"

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3.We have heard Mrs.K.G.Usharani for Mr.T.R.Senthilkumar, the learned counsel for the appellant/Revenue and Mr.R.Venkatanarayana, the learned Counsel for the respondent/assessee.

4.The learned counsel for the Revenue as well as the

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assessee agree that the above Substantial Questions of Law were decided in favour of the assessee and against the Revenue in the assessee's own case for the assessment year 1997-98, in the case of **the Commissioner of Income Tax v. Annamalai Finance Ltd., [(2010) 319 ITR 0196]**.

5.It is submitted by the learned counsel for the respondent/assessee that earlier the respondent/assessee was named as M/s.Annamalai Finane Ltd and the name has been changed to M/s.Shiva Tex Yarn Ltd.

6.Thus, by following the above decision, these Tax Case Appeals, filed by the Revenue, are dismissed and the Substantial Questions of Law are answered in favour of the respondent/assessee. No costs.

सत्यमेव जयते

(T.S.S.J.) **(V.B.S.J.)**
25.10.2018

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Index:Yes/No

To

1.The Income-Tax Appellate Tribunal, Chennai "D" Bench.

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Madras.

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T.S.Sivagnanam, J.
and
V.Bhavani Subbaroyan, J.

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T.C. (Appeal) Nos.2132 to 2134 of 2008

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