IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Tax Case (Appeal) No.266 of 2009

M/s.Clariant Chemicals (India) Ltd.,
Karumuttu Centre, III Floor,
498, Anna Salai, Chennai-600 035.

(Cause titled accepted, vide Court order dated 25.02.2009 in M.P.No.1 of 2009 in T.C.(A) SR No.74207 of 2006) ... Appellant

-vs-

The Joint Commissioner of Income-tax,
Special Range-VI, Chennai-600 034. ... Respondent

Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income-tax Appellate Tribunal Bench 'B' Chennai, dated 17.03.2006 in I.T.A.No.1910/Mds/2000 for the assessment year 1997-98, and against the order dated 14/9/2000 made in IT/WT/GT/A.No.33/2000-2001 passed by the Commissioner of Income Tax (Appeals)-V, Chennai-34 and against the order dated 22/03/2000 passed by the Joint Commissioner of Income Tax, Special Range VI, Chennai -34 for the Assessment Year 1997-98.

For Appellant : Mr.R.Venkata Narayanan,
For M/s.Subbaraya Aiyar,
Padmanabhan, Ramamani

For Respondent : Mrs.R.Hemalatha,
Senior Standing Counsel

JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal, filed by the appellant/assessee under Section 260A of the Income-tax Act, 1961, is directed against the order of the Income-tax Appellate Tribunal Bench 'B', Chennai, (for brevity "the Tribunal") dated 17.03.2006, passed in I.T.A.No.1910/Mds/2000 for the assessment year 1997-98.

2. The appeal was admitted, on 30.04.2009, on the following substantial questions of law:-

> "(i) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in not holding that the interest received on belated payment of sale price from customers do not form part of the 'business profit'?
>
> (ii) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that interest on belated payments is in the nature of miscellaneous income as per cl. (baa) to Explanation to Sec. 80HHC and hence 90% of the same has to be excluded from the profits of the business for the purpose of computation of deduction u/s 80HHC?"

3. In identical circumstances, a judgment has been passed by this Court in the assessee's own case relevant to the assessment year 1996-97 in T.C.(A) No.197 of 2009 on 19.11.2018.

4. Learned counsel on either side agreed that the above judgment is fully applicable to the present case on hand.

5. Following the above judgment passed by this Court, the substantial questions of law are answered in favour of the assessee and the appeal is accordingly allowed. The direction issued by the Commissioner of Income-tax (Appeals)-V is restored and to be complied with by the Assessing Officer at the earliest. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Income-tax Appellate Tribunal Bench 'B' Chennai.

2.The Commissioner of Income Tax (Appeals)-V,
Chennai-34.

3.The Joint Commissioner of Income Tax,
Special Range VI, Chennai-34.

+1cc to M/S.T.Subbaraya Aiyar, Advocate sr.79391
+1cc to Mr.T.Ravikumar, Advocate sr.79743

Tax Case (A) No.266 of 2009

sj[co]
srg 20/12/2018