IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE DR.JUSTICE ANITA SUMANTH

Tax Case Appeal No.533 of 2009

Commissioner of Income Tax III
Coimbatore. Appellant

Vs.

M/s.Sreeja Hosieries
No.61-B, 15, Velampalayam Main Road,
Anuparpalayam (PO) Tirupur,
(PAN AALFS808IN) Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 26.12.2008 made in I.T.A.No.2008/Mds/2006 against the Income Tax Appellate Tribunal 'D' Bench, Chennai dated 26.12.2008 passed in I.T.A.No.2008/(MDS)/2006 Assessment Year 2003-2004 PAN NO. AACFS808/N against the Commissioner of Income Tax (Appeals)II Coimbatore PAN No. AACFS808IN dated 13.07.2006 in I.T.A.No.364 C/05-06 against the order of the Assistant Commissioner of Income Tax Circle I, Tirupur for the Assessment Year 2003-2004 dated 08.02.2006, PAN/GIR No. AALFS808IN.

For Appellant : Mr.K.G.Usharani for
Mr.T.R.Senthilkumar,
Senior Standing Counsel

For respondent : No appearance.

J U D G M E N T
(Delivered by DR.VINEET KOTHARI, J)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Madras 'D' Bench, Chennai, dated 26.12.2008 made in I.T.A.No.2008/Mds/2006, by raising the following substantial questions of law:

> "(i) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the deduction under

Section 80HHC is to be computed on the net income after deducting the deduction allowed under Section 801B of the Income Tax Act, 1961?

(ii) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in ignoring the specific provision 801A(9) read with Section 801B(13) which forbidden deduction to the extent of profit allowed under Section 801B under any provision of VI A? "

2. When the matter is taken up for admission, the learned Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.3/2018 dated 11.7.2018 wherein it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.50 lakhs.

3. In the instant case, the tax effect is less than the monetary limit imposed and therefore, the appeal is dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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+1 CC to Mr.T.R.Senthilkumar, Advocate sr 82099.

TCA No.533 of 2009

VSNII(CO)
SP(05/02/2019)