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.115 to 118 of 2010

The Commissioner of Income
Tax, Tiruchirapalli-1 ...Appellant/Respondent
in all Appeals

Vs

M/s.Parameswari Textiles, Karur
1-B, Kulathupulayar Road, Vengamedu,
Karur-639 006. ...Respondent/Appellant
in all appeals

Prayer:APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 21.4.2009 in ITA Nos.1585 to 1588/Mds/2008 on the file of the Income Tax Appellate Tribunal Madras 'C' Bench respectively for the assessment years 1999-2000, 2000-01, 2002-03 and 2004-05 against the order of the Commissioner of Income Tax (Appeal), Tiruchirapalli, dated 30.6.08, and 1.7.08 made in I.T.A.424/06-07, ITA No.191/07-08, I.T.A.No.192/07-08 and ITA No.466/06-07 against the order of the Deputy Commissioner of Income Tax, Circle-II, Tiruchy, dated 26/12/2006, 11.12.2007 and 5.12.2016, made in AAAFP6753H/Cir-II/Try and AAAFP6753A.

For Appellant : Mrs.R.Hemalatha

For Respondent : Mr.Quadir Hoseyn

COMMON JUDGMENT

(Judgment was delivered by T.S.SIVAGNANAM,J)

Heard the learned counsel for the appellant.

2. The Revenue has preferred these appeals challenging the orders passed by the Income Tax Appellate Tribunal in ITA.Nos.1585 to 1588/ Mds/ 2008 respectively for the assessment years 1999-2000, 2000-01, 2002-03 and 2004-05.

3. These appeals have been admitted on 29.3.2010 on 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 assessee, a supporting manufacturer, was entitled to deduction under Section 80HHC in respect of the DEPB and duty drawback and similar incentives disclaimed in its favour by the exporter ?
>
> ii. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the assessee, a supporting manufacturer, was entitled to deduction under Section 80HHC in respect of the DEPB and duty drawback disclaimed in its favour by the exporter without taking note of the Third Proviso to Sub-Section (3) of Section 80HHC and the difference between the provisions of Sub-Sections (3) and (3A) of Section 80HHC?
>
> iii. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal had any material to come to the conclusion that the DEPB and duty drawback etc. benefits received by the assessee by virtue of disclaimer issued by the exporter in its favour should be regarded as part of sale consideration when such benefits could not be treated as export benefits under Section 28(iiia) etc. ? And
>
> iv. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the decision of the Supreme Court in the case of Commissioner of Income Tax Vs. Baby Marine Exports (290 ITR 323) was applicable to the assessee's case without noticing that the said case related to export premium whereas in the assessee's case, the issue related to DEPB/duty drawback, etc. disclaimed in its favour by the exporter?"

4. It may not be necessary for us to answer the above substantial questions of law, as the monetary limits in these

appeals are lesser than the amount fixed by the circular instructions issued by the Central Board of Direct Taxes. This Court had an occasion to consider the effect of those circulars in TCA.No.395 of 2018 dated 24.7.2018, the relevant portions of which are as follows :

> "4. Further, it is relevant to note that by Circular No.3/2018, dated 11.7.2018, monetary limit has further been increased and appeals be maintainable before the High Courts. It has been increased to Rs.50,00,000/-. Hence, viewed from any angle, this appeal could not have been filed.
>
> 5. Thus, by applying the above Circular issued by the CBDT, this appeal ought not to have been filed by the Revenue and hence, for that reason, this tax case appeal is dismissed and the substantial questions of law, framed for consideration, are left open."

5. In the light of the above, the above appeals are dismissed. No costs. The substantial questions of law are left open for consideration.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Madras C Bench.

2.The Commissioner of Income Tax (Appeals),
Tiruchirappalli.

3.The Deputy Commissioner of Income Tax, Circle-II,
Tiruchy.

4.The Commissioner of Income Tax,
Tiruchirappalli.

5.The Assistant Registrar,
Income Tax Appellant Tribunal,
III Floor, Rajaji Bhavan,
Besant Nagar, Chennai.

+1cc to Mr.T.Ravikumar, Advocate Sr.73272
+1cc to Mr.N.Quadir Hoseyn, Advocate Sr.73197

TCA.Nos.115 to 118 of 2010

ssv[co]
srg 22/11/2018