IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SESHASAYEE

T.C.(Appeal) No.881 of 2008

Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

M/s.Colorplus Fashions Pvt. Ltd.,
C-10, Industrial Estate,
Ambattur, Chennai-600 058. ... Respondent

Appeal filed under Section 260A of Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras "A" Bench, Chennai, in I.T.A.No.1918/Mds/05 for the assessment year 2001-02 dated 16.11.2007 and appeal against the order of the Commissioner of Income Tax (Appeals)-VIII, Aajaken Bhawan, 121, M.G. Road, Chennai 34 in ITA.Tr.No.160 of 2004-05 dated 17/5/2006 and appeal against the order of the Assistant Commissioner of Income Tax, Campany Circle-I, Chennai in G.I./PA.NO.CX3-170/ AABCC3410D dated 27.2.2004.

For Appellant : Mr.R.Sureshkumar
for Mr.T.Ravikumar
For Respondent : Mr.Pushya Sitaraman

J U D G M E N T

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

Heard Mr.R.Sureshkumar, learned counsel for Mr.T.Ravikumar, learned counsel for the Revenue and Mr.Pushya Sitaraman, learned counsel for the assessee.

2. This appeal, by the Revenue, is directed against the order dated 16.11.2007, passed by the Income Tax Appellate Tribunal, Madras "A" Bench, Chennai, in I.T.A.No.1918/Mds/05 for the assessment year 2001-02.

3. This tax case appeal has been admitted on the following substantial questions of law:

> "(i) Whether in the facts and circumstances of the case, the Tribunal was right in allowing deduction under Section 80 IB when the assessee does not manufacture any goods by itself, but gets the same manufactured by others on a job work basis?
>
> (ii) Whether on the facts and circumstances of the case, an assessee, who gets work done by a job worker can claim to be an industrial undertaking?"

4. The Tribunal, by the impugned order, dismissed the appeal filed by the Revenue following the assessee's own case in respect of the assessment year 2000-01. As against the said order, the Revenue had filed T.C.(A). No.1027 of 2007.

5. In T.C.(A).No.1027 of 2007, two of the substantial questions, viz., 1 & 3, are identical to the substantial questions framed in this appeal. The appeal filed by the Revenue was dismissed by judgment dated 03.12.2012, answering both the questions in favour of the assessee. The operative portion of the judgment reads as follows:

> "2. The assessee is a domestic company in which public are substantially interested. The relevant assessment year is 2000-2001. The corresponding accounting year ended on 31.03.2000 and the assessee is engaged in the manufacture of sale of garments. The Assessing Officer completed the assessment under Section 143(3) of the Income Tax Act, 1961. While completing the assessment, the Assessing Officer denied the benefit claimed under Sections 80IA/80IB. Aggrieved by the same, the assessee filed appeal before the Commissioner of Income Tax (Appeals). The CIT (Appeals) partly allowed the appeal, following another assessee's case, namely, ITO v. Elgi Ultra Industries Limited, Coimbatore, in I.T.A.No.1631/Mds/2003, dated 26.10.2005. Aggrieved by the same, both the assessee and the Revenue filed appeals before the Income Tax Appellate Tribunal. The Income-Tax Appellate Tribunal answered the issues in favour of the assessee ad dismissed both the appeals. Aggrieved by the same, the Revenue filed the present Tax Case Appeal raising the above questions of law.

3. Learned Standing Counsel appearing for the Revenue fairly stated that the issue involved in this case is squarely covered by this Court's judgment in the case of The Commissioner of Income Tax, Coimbatore vs. M/s.Elgi Ultra Industries Limited, Coimbatore in Tax Case (Appeal) Nos.451 of 2006 and 218 and 219 of 2007, dated 10.08.2012, reported in (2012) 210 TAXMAN 204 (Madras).

4. It is also pertinent to note that the Tribunal followed the earlier Tribunal's order, namely, M/s.Elgi Ultra Industries Limited, stated about and against that order the Revenue filed the appeal before this Court. In that matter, this Court answered the question in favour of the assessee and allowed the case.

5. There is no dispute that the issue is squarely covered by this Court's judgment, cited supra.

6. Under these circumstances, following the above judgments cited supra, the questions of law raised herein are answered in favour of the assessee and against the Revenue. The Tax Case Appeal is devoid of merits. Hence, the same is dismissed. No costs."

6. Thus, following the above judgment, this tax case appeal is dismissed and the substantial questions of law framed are answered in favour of the assessee and against the Revenue. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Income Tax,
Chennai.

2.The Income Tax Appellate Tribunal,
Madras “A” Bench, Chennai.

3. The Commissioner of Income Tax, (Appeals)-VIII,
Aajaken Bhavan, 121, M.G.Road, Chennai-34.

4. The Assistant Commissioner of Income Tax,
Company Circle-I, Chennai.

+ 1 cc to MR.T. Ravikumar, Advocate Sr.26534

KJI(CO)
EU(04/05/2018)