IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.06.2018

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The Honourable **Mr.JUSTICE M.M.SUNDRESH**
and
The Honourable **Mr.JUSTICE N.ANAND VENKATESH**

Tax Case (Appeal) No.485 of 2010

The Commissioner of Income-tax-I,
Tiruchirapalli. ... Appellant

Vs.

M/s Pukra Exports,
156/10-A, Coimbatore Road,
Karur-639 002. ... Respondent

Appeal under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'C' Bench, Chennai, dated 27.10.2009 in ITA.No.708/Mds/2007 for the assessment year 2003-2004.

For Appellant : Mr.T.Ravikumar
Standing Counsel

For Respondent : Mr.Subbaraya Aiyar

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The Revenue has filed this appeal as against the order of the Income Tax Appellate Tribunal, 'C' Bench, Chennai, dated 27.10.2009 in ITA.No.708/Mds/2007 for the assessment year 2003-2004.

2. This Court admitted the above Tax case Appeal on 22.06.2010 on the following substantial questions of law:-

> "(i)Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the face value of DEPB is chargeable to tax on accrual basis and that the profit on sale of DEPB representing the excess of sale proceeds of DEPB over its face value is liable to be considered under Section 28(iii) (d) at the time of its sale?
>
> (ii) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in not holding that the scheme of DEPB is not an automatic benefit to an exporter in the form of cash assistance; but arises only on making application to the concerned authority pursuant to exports and is in the nature of "benefit of perquisite arising out of business" and therefore is chargeable to tax under Section

28(iv)?

3. When the above Tax Case Appeal is taken up for hearing, the leaned Standing Counsel appearing for the appellant would submit that the questions of law raised in this Tax Case Appeal are covered against the revenue and in favour of the assessee by earlier decision of Apex Court in **COMMISSIONER OF INCOME TAX, CENTRAL-III VS. HCL TECHNOLOGIES LTD., (Civil Appeal Nos.8489-8490 of 2013 dated 24.04.2018).**

4. In terms of the said decision, the above Tax Case Appeal stands dismissed. No costs.

(M.M.S.,J.) (N.A.V.,J.)

29.06.2018

Index:Yes/No

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To

1.The Deputy Commissioner of Income Tax Circle-II, Trichy.
2.The Commissioner of Income TAX (Appeals), Trichy.
3.The Income Tax Appellate Tribunal, Bench 'C', Chennai.

M.M.SUNDRESH, J.
and
N.ANAND VENKATESH,J.

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T.C.(A) No.485 of 2010

29.06.2018