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) Nos.460 & 461 of 2010

The Commissioner of Income-tax-II,
Madurai. ... Appellant in both appeals

Vs.

M/s Srinivasa Fine Arts P. Ltd.,
35A, Velayutham Road, Sivakasi,
PAN No.AABCS5323E. ... Respondent in both appeals

Appeals under Section 260-A of the Income Tax Act, 1961 against the orders of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 18.09.2009 in ITA.Nos.2417/Mds/2006 & 1797/Mds/2007 respectively.

For Appellant in both appeals : Mr.M.Swaminathan

For Respondent in both appeals : Mr.A.S.Sriraman for Mr.A Sridhar

COMMON JUDGMENT

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

These two appeals have arisen for the assessment years 2003-2004 and 2004 -2005 respectively being aggrieved over the orders of the Tribunal, which in turn, confirmed the orders of the Commissioners of Income Tax (Appeals).

2. This Court, on 06.07.2010, admitted the appeals on the second question of law alone and dismissed the appeals insofar as the first question of law. Hence, the question of law that has to be considered is as follows.

> "Whether on the facts and in the circumstances of the case, the income-tax Appellate Tribunal was right in law in holding that the 90% of sale value of DEPB sales or 90% of profits on sale value of DEPB is to be reduced from the profits of the business for the purpose of deduction under Section 80HHC of the Income Tax Act, 1961?"

3. When the above appeals are taken up for hearing, the learned counsel appearing for the Revenue fairly submitted that the issue is already covered against the Revenue by the judgment of Apex Court in **TOPMAN EXPORTS VS. COMMISSIONER OF INCOME TAX ((2012) 342 ITR 0049)**.

4. Since the issue is covered against the Revenue by the decision of the Apex Court cited supra, the above question of law is answered against the Revenue. Accordingly, the appeals stand dismissed. No costs.

(M.M.S.,J.) (N.A.V.,J.)
29.06.2018

Index:Yes/No

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To

1.The Assistant Commissioner of Income Tax, Circle-I, Virudhunagar.
2.The Deputy Commissioner of Income Tax Circle-I, Virudhunagar.
3.The Commissioner of Income TAX (Appeals) II, Madurai.
4.The Income Tax Appellate Tribunal, Bench B, Chennai.

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

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T.C.(A) Nos.460 & 461 of 2010

29.06.2018