IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE T.RAVINDRAN

Tax Case Appeal Nos.1050 to 1055 of 2009

Commissioner of Income Tax
Tiruchirappalli-1.
... Appellant in all appeals

Vs.

M/s.Atlantic Fabrics
S.F.Nos.1658 & 1659
Amaravathy Nagar
Andan Koil, Karur-639 002.
... Respondent in TCA 1050/2009

M/s.R.K.Textiles
22 Kamarajapuram West
Karur-639 002.
... Respondent in TCA Nos. 1051 and 1052 of 2009

M/s.Asian Handlooms
1-D Pugalur Road
Karur.
... Respondent in TCA 1053/2009

K.Subramanian
Proprietor, M/s.R.K.Exports
22, Kamarajapuram West,
Karur-639 002.
... Respondent in TCA 1054/2009

M/s.Parameshwari Textiles
1-B, Kulathupalayam Road
Vegamedu, Karur.
... Respondent in TCA 1055/2009

Tax Case Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of the Income Tax Appellate

Tribunal, Chennai 'C' Bench dated 12.12.2008 in ITA Nos.947/Mds/2008, 841/Mds/2008, 842/Mds/2008, 843/Mds/2008, 844/Mds/2008 and 946/Mds/2008, respectively.

1.TCA.1050/2009

and against the O/o. Commissioner of Income Tax-II, Trichy made in C.No.6143(1)CIT-1/TRY/2007-08 dated 19/03/2008 for the Assessment year 2007-08 and against the Deputy Commissioner of Income_Tax-Circle-II, Trichy in PAN/GIR.NO.AAAFA4315Q/20-FA-26 dated 28/02/2006 for the Assessment year 2003-04.

2.TCA.1051/2009

and against the Commissioner of Income Tax-II, Trichirapalli C.No.6143(2)CIT-1/TRY/2007-08 dated 25/03/2008 for the Assessment year 2007-08 and against the Deputy Commissioner of Income-Tax-Circle-II, Trichy in PAN/GIR.NO.AAAFR6620H(iv)-II Try dated 30/03/2006 for the Assessment year 2001-02.

3.TCA.1052/2009

and against the Commissioner of Income Tax-II, Trichy made in C.No.6143(3)/CIT-I/TRY/2007-08 dated 25/03/2008 for the Assessment year 2007-08 and against the Deputy Commissioner of Income-Tax Trichy in PAN/GIR.NO.AAAFR6620H(iv)-II/Try dated 24/03/2006 for the Assessment year 2003-04.

4.TCA.1053/2009

and against the O/o Commissioner of Income Tax-II, Trichirapalli and made in C.No.6143(4)CIT-I/TRY/2007-08 dated 19/03/2008 for the Assessment year 2007-08 and against the Deputy Commissioner of Income-Tax-Circle-II, Trichy in PAN/GIR.NO.20-PA-24/(iv-II/Try dated 28/02/2006 for the Assessment year 2003-04.

5.TCA.NO.1054/2009

and against the O/o Commissioner of Income Tax-II, Trichirapalli and made in C.No.6143(5)CIT-I/TRY/2007-08 dated 25/03/2008 for the Assessment year 2007-08 and against the Deputy Commissioner of Income-Tax, Circle-II, Trichirapalli in PAN.ABWPS6991D dated 17/03/2006 for the Assessment year 2003-04.

6.TCA.NO.1055/2009

and against the O/o Commissioner of Income Tax-II, Trichy and made in C.No.6143(6)CIT-I/TRY/2007-08 dated 19/03/2008 for the Assessment year 2007-08 and against the Deputy Commissioner of Income-Tax-Circle-II, Trichy in PAN/GIR.NO.AAAFP6753H/(iv)-II/ Try dated 22/03/2006 for the Assessment year 2003-04.

For Appellant in all appeals : Ms.V.Pushpa for Ms.S.Premalatha Standing Counsel for Income Tax Dept.

For Respondent in all appeals : Mr.N.Quadir Hoseyn and Mr.T.Vasudevan

COMMON JUDGMENT

(Delivered by DR.VINEET KOTHARI, J.)

Learned counsel for the Revenue fairly submitted that the present appeals are directed against the orders passed by the learned Income Tax Appellate Tribunal, whereby the learned Tribunal cancelled the orders passed by the learned Commissioner of Income Tax under Section 263 of the Income Tax Act ("Act" in short), for the Assessment Years in question, by which the learned Commissioner had directed the Assessing Authority to examine the claim of the assessees under Section 80HHC of the Act, as they are Supporting Manufacturers.

2.This Court, in the case of Commissioner of Income Tax, Trichirappalli v. M/s.Asian Handlooms, Karur, vide judgment dated 23.09.2013, in TC(A)Nos.1013, 401, 1106 and 567 of 2009, remanded the cases back to the Assessing Authority to consider the case of the assessees for grant of benefit under Section 80HHC of the Act, with the following observation:

> "13.Considering the pronouncement of the Apex Court on this, we hold that the assessee's claim could not be rejected straightaway by the Revenue. Thus on the findings given by the Assessing Officer that export incentive was not part of the sale consideration, the only aspect that has to be decided is how much was the value of the incentives received by the assessee as a supporting Manufacturer from the export house. To that end, this Court feels that the matter demands remittal to the Assessing Officer to consider the assessee's claim and apply the decision of the Apex Court reported in (2012) 342 ITR 49 in the case of Topman Exports Vs. Commissioner of Income Tax, as stated above and pass orders under the claim of the assessee under Section 80HHC of the Income Tax Act, 1961.
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> 14.In the result, the Tax Case (Appeals) stand disposed of with the above direction. No costs."

3.Such view of this Court in the case of Commissioner of Income Tax, Trichirappalli v. M/s.Asian Handlooms, Karur, dated 23.09.2013, was again reiterated by a Co-ordinate Bench of this Court in T.C.(A)Nos.212 to 214 of 2011 relating to the same assessee in Commissioner of Income Tax, Trichy v. M/s.Asian Handlooms, Karur on 28.01.2019 and the matters now stand remitted to the Assessing Officer.

4.In view of this, the present appeals filed by the Revenue against the orders of the Tribunal cancelling the orders passed by the learned Commissioner of Income Tax under Section 263 of the Income Tax Act, have become infructuous. Therefore, we dispose of these appeals without answering the questions as having been rendered infructuous, with a liberty to the assessees to raise their claim under Section 80HHC of the Act on merits, before the Assessing Authority, in accordance with law.

5.With this observation, these appeals are disposed of as infructuous. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Appellate Tribunal, Chennai 'C' Bench.

2.The Commissioner of Income-Tax,
Circle-II, Trichirapalli.

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

+6ccs to M/s.M.Swaminathan, Advocate sr.27631 to 27636

Tax Case Appeal Nos.1050 to 1055 of 2009

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nr 06/05/2019