IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.7.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.1194 of 2009

Commissioner of Income Tax-III,
Coimbatore. ...Appellant

Vs

M/s.Eastman Exports Global
Clothing P. Ltd., Tirupur. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 17.4.2009 made in ITA.No.1509/Mds/2008 on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench for the assessment year 2004-05 against the order of the Commissioner of Income Tax(Appeals) in ITA.No53C/07-08 dated 31.03.2008 as against the order of the Assistant Commissioner of Income tax,Grade(1),Tiruppur dated 26.10.2007.

For Appellant : Mr.T.R.Senthilkumar, SSC &
Ms.K.G.Usharani, SC
For Respondent: Mr.R.Sivaraman

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel as well as Ms.K.G.Usharani, learned Standing Counsel appearing for the Revenue and Mr.R.Sivaraman, learned counsel appearing for the respondent - assessee.

2. This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961, is directed against the order dated 17.4.2009 made in ITA.No. 1509/Mds/2008 on the file of the Income Tax Appellate Tribunal, Madras 'C' Bench for the assessment year 2004-05.

3. The above appeal was admitted on 16.11.2009 on the following substantial question of law :

> "Whether, on the facts and circumstances of the case, the Appellate Tribunal was right in law in deleting the levy of interest under Section 234B of the Income Tax Act, as the assessee cannot be made to pay interest based on retrospective amendment to Section 80HHC with retrospective effect from 01.4.1992 by the Taxation Law Amendment Act, 2005 is valid ?"

4. The learned Senior Standing Counsel appearing for the Revenue seeks permission to withdraw this appeal on account of low tax effect. He has also made an endorsement in the bundle today to that effect.

5. Hence, the above tax case appeal is dismissed as withdrawn. The substantial question of law is left open. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//
Sub Assistant Registrar

RS
To
The Registrar,
Income Tax Appellate Tribunal, Chennai 'C' Bench.

2.The Commissioner of Income Tax(Appeals)-II,
Coimbatore.

3.The Assistant Commissioner of Income Tax,Circle I(1),
Tiruppur

+1cc to Mr.T.R.Senthilkumar , Advocate SR.No. 66115
TCA.No.1194 of 2009
rpa
A.SK(06/09/2019)