IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Tax Case Appeal No. 2044 of 2008

Commissioner of Income Tax
Chennai — Appellant / Respondent

Vs.

M/s. Ucai Fuel Systems Ltd.
"Raheja Towers", Delta Wing
Unit 505, VII Floor, 177 Anna Salai
Chennai – 600 002.
PAN: AAACU0514K — Respondent//Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai, dated 11.04.2007 made in ITA No. 1651/Mds/2007.

For Appellant : Mr. M.Swaminathan
Senior Standing Counsel

For Respondent : Mr. R.Venkatnarayanan
for Mr.R.Vijayaraghavan

J U D G M E N T

(Delivered by **DR.VINEET KOTHARI, J**)

The revenue has filed this appeal under Section 260A of the Act raising the following purported substantial questions of law arising from the order of the learned Tribunal dated 11.04.2007 whereby the learned Tribunal dismissed the Revenue's Appeal for the Assessment Year 1999 to 2000. The substantial question of law is quoted below for ready reference:

> *"Whether in the facts and circumstances of the case, the Tribunal was right in law in holding that the rectification under Section 154 is invalid by holding that the issue is debatable when the provision itself is clear with regard to the deduction allowed under 80IA requires to be reduced from the profits and gains for the purpose of computing the deduction under Section 80HHC?"*

2. The findings of the learned Tribunal in this regard are quoted below for ready reference:-

"After considering the rival submissions we agree with the submissions of the learned Counsel for the Assessee that the decision of the Special Bench of the Tribunal has been rendered on 27.04.2007 and thus obviously the same was not available at the time of passing the rectification order vide order dated 27.02.2006 or the appellate order dated 16.03.2007. Moreover, there was controversy in the decisions rendered by various Benches of the Tribunal on this issue and the matter travelled to the Special Bench. Therefore, it is clear that the issue is highly debatable and the CIT (Appeals) has rightly allowed the appeal by holding that the issue is debatable. Accordingly, we find nothing wrong with the order of the CIT (Appeals) and the same is confirmed. "

3. Having heard the learned counsels for the parties, we are of the opinion that no substantial question of law arises in the present appeal filed by Revenue in so far as the scope of Section 154 of the Act has been discussed by the learned Tribunal in the impugned order.

4. In our opinion, the learned Tribunal was perfectly justified in rejecting the Revenue's Appeal on the ground that a debatable issue could not have been the subject matter of proceedings under Section 154 of the Act and that the Assessing Authority by invoking Section 154 of the Act providing for the rectification of a mistake apparent on the face of the record, could not restrict the benefit of deduction under Section 80IA and 80HC of the Act.

5. It is true that the question of law as to whether the relief under Section 80IA should be deducted from the profits and gains by the business before computing the relief under Section 80 HC or not, is a question which is still open and has been referred to a Larger Bench of this Court in the case of ***MM Forgings*** and the matter is also said to be pending before the Hon'ble Supreme Court in the case of ***Micro Labs.***

6. However, since in the present case, the said benefit of deduction was restricted by invoking Section 154 of the Act, we are satisfied that no substantial question of law arises for our consideration.

7. The Appeal of Revenue is accordingly dismissed. No costs.

(V.K., J.) (C.V.K.,J.)
08.03.2019

Index : Yes/No
Internet : Yes/No

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Dr.VINEET KOTHARI, J.
and
C.V.KARTHIKEYAN, J.

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