IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.8.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.454 of 2009

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

Vs

M/s.Shriram Knits, Tirupur. ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 17.12.2008 made in ITA.No.327/Mds/2007 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench for the assessment year 2003-04 against the order of the commissioner of Income Tax Appeals-II at Coimbatore dated 13.11.2006 against PAN NO.AACF57982 C on the file of the Commissioner of Income Tax (Appeals)-II,Coimbatore.

For Appellant: Mr.T.R.Senthilkumar, SSC assisted by
Ms.K.G.Usharani, JSC

For Respondent: Mr.Niranjan Rajagopal

Judgment was delivered by T.S.Sivagnanam,J

We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned Junior Standing Counsel for the appellant - Revenue and Mr.Niranjan Rajagopal, 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 17.12.2008 made in ITA. No.327/Mds/2007 on the file of the Income Tax Appellate Tribunal, Madras 'A' Bench for the assessment year 2003-04.

3. The appeal was admitted on 30.6.2009 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the deduction under Section 80HHC is to be computed on the net income after reducing the deduction allowed under Section 80IB of the Income Tax Act, 1961 ? and
>
> ii. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in ignoring the specific provision viz. Section 80IA(9) read with Section 80IB (13), which forbidden deduction to the extent of profit allowed under Section 80IB under any provision of Chapter VIA?"

4. The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5. In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial questions of law framed are left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To
THE INCOME TAX APPELLATE TRIBUNAL, MADRAS 'A' BENCH.

2.THE COMMISSIONER OF INCOME TAX APPEALS-II AT COIMBATORE

3.THE ASSISTANT COMMISSIONER OF INCOME TAX,CIRCLE I,TIRUPPUR

+1cc to Mr.T.R.Senthilkumar , Advocate SR.No. 69900

A.SK(17/09/2019)