IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 13-02-2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

T.C.A.Nos.923 & 924 of 2008

M/s.Ambattur Clothing Ltd. ... Appellant in both appeals

-vs-

The Deputy Commissioner of Income-Tax,
Company Circle I (1),
Chennai-34. ... Respondent in both appeals

T.C.A.No.923 of 2008 is filed under Section 260A of the Income Tax Act,1961, against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 06.10.2006, passed in ITA No.2062/Mds/2003.

T.C.A.No.924 of 2008 is filed under Section 260A of the Income Tax Act,1961, against the order of the Income Tax Appellate Tribunal, Chennai 'A' Bench, dated 06.10.2006, passed in ITA No.2063/Mds/2003.

For appellant : Mr.V.K.Vijayaraghavan
for M/s.Subbaraya Aiyar Padmanabhan

For respondent : Mr.T.Ravikumar
Senior Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by **Dr.Vineet Kothari,J**.)

Assessee has filed these Appeals aggrieved by the order passed by the learned Income Tax Appellate Tribunal, in short, 'the Tribunal' Chennai 'A' Bench, in I.T.A.Nos.2062/Mds/2003 and 2063/Mds/2003, dated 06.10.2006, for the Assessment Years 2000-2001 and 2001-2002 respectively, dismissing the appeals of the Assessee.

2. The learned Tribunal, in the said order, recorded the concession given by the learned counsel for the Assessee in terms of the decision of the Hon'ble Supreme Court in the case of *Ipca Laboratories* v. *Deputy Commissioner of Income Tax*, 266 ITR 521, on the issue whether the word '**Profit**' occurring in Section 80HHC of the Income Tax Act,1961, (3) means the net of the profit from the export of the self-manufactured goods and also the export of the traded goods.

3. Mr.V.K.Vijayaraghavan, learned counsel for the Appellant/ Assessee, however, submits that the real and another issue, which was raised before the learned Tribunal in the grounds of appeal, was not about the applicability of the judgment of the Supreme Court in the case of *Ipca Laboratories*, supra, but the Assessee had also claimed that only net interest income could be included, namely, gross interest minus expenditure incurred on the borrowal of the amount for investment for earning that interest and such net interest alone could be considered for the purpose of Section 80HHC and, if that net figure is so taken, there is no question of disallowance to the extent of 90% of the negative figure of net interest. According to the learned counsel, the said aspect has not been considered by the learned Tribunal in the order impugned, though a specific ground was raised before it in the appeal.

4. Having heard the learned counsel for the parties and also on perusal of the impugned order of the learned Tribunal, dated 06.10.2006, we are of the opinion that this matter deserves to be sent back to the Tribunal for considering the aforesaid ground of the Assessee about the netting of the interest income, as the same apparently does not seem to have been considered by the Tribunal at all.

5. Therefore, we allow these Tax Case Appeals of the Assessee and direct the learned Tribunal to reconsider the Appeals afresh on the aforesaid ground of Appeal in accordance with law. No costs.

6. Parties may appear before the learned Tribunal in the first instance on **05.03.2019** and the Tribunal may decide the issue within a period of six months thereafter.

(V.K.,J.) (C.V.K.,J.)
13-02-2019

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Note to Office :
Issue Order Copy on or before 20.02.2019

To

1.The Deputy Commissioner of Income-Tax,
Company Circle I (1),
Chennai-34.

2.Income Tax Appellate Tribunal,
Chennai 'A' Bench,
Chennai.

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

dixit

T.C.A.Nos.923 &924 OF 2008

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