W.P.No.27188 of 2008
and
M.P.No.1 of 2008

C.SARAVANAN, J.

Today, this case is listed under the caption "for being mentioned" at the instance of the learned counsel for the petitioner in W.No.27188 of 2008.

2. The Writ Petition was disposed of on 04.02.2020. It is stated by the learned counsel for the petitioner that in paragraph No.3, there is a typographical error. Instead of word "allowed", the word "disallowed" has been mentioned.

3. The learned counsel for the 1st to 3rd respondents has also confirmed the same.

4. It is noticed that indeed there is a typographical mistake in the order in paragraph No.3. Therefore, the word "disallowed" shall be substituted with a word "allowed" in paragraph No.3.

5. The Registry is directed to carryout the above correction in the order and issue fresh order copy to the parties.

31.08.2020

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C.SARAVANAN.,J.

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W.P.No.27188 of 2008
and M.P.No.1 of 2008

31.08.2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 27188 of 2008
and
M.P. No. 1 of 2008

M/s.Stanco Traders,
132, Patti Street,
Sivakasi – 626 123.
Represented by its Partner,
Sri Yennarkey R. Rajaratnam ... Petitioner

Vs

1. The Union of India,
   Represented by its Secretary,
   Board of Approval (EOUs)
   Ministry of Commerce & Industry,
   Department of Commerce,
   Government of India,
   Shastri Bhavan, R.P. Marg,
   New Delhi – 110 002.

2. The Director General of Foreign Trade
   and Ex-Officio Secretary to
   Government of India,
   Ministry of Commerce & Industry,
   Department of Commerce,
   Government of India, Shastri Bhavan,
   R.P. Marg, New Delhi – 110 002.

3. The Development Commissioner,
   Madras Export Processing Zone,

National Highways,
45, Tambaram, Madras – 600 045.

4. The Joint Development Commissioner,
Madras Export Processing Zone,
National Highways,
45, Tambaram, Madras – 600 045.

5. The Central Board of Direct Taxes,
Central Secretariat,
North Block, New Delhi,
Represented by its Secretary.

6. The Assistant Commissioner of Income-tax,
Circle-I, Kutchery Road,
Virudhunagar – 626 101. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the recognition of the Petitioner as an undertaking engaged in a manufacturing activity by the First, Second and Third Respondents shall be binding on the Fifth and Sixth Respondents in the matter of the application of Section 10B of the Income Tax Act.

For Petitioner : Mr. M.P. Senthil Kumar
for Mr. N. Muthukumar

For R1 & R2 : Mr. V. Chandrasekaran
For R3 & R4 : No appearance
For R5 & R6 : Ms. Hema Muralikrishnan

ORDER

The present writ petition has been filed by the Petitioner for the following relief: to declare the recognition of the Petitioner as an undertaking engaged in a manufacturing activity by the First, Second and Third Respondents shall be binding on the Fifth and Sixth Respondents in the matter of the application of Section 10B of the Income Tax Act, 1961.

2. The trigger for filing the present Writ Petition appears to be notice dated 29.01.2008 calling upon the Petitioner to appear for hearing at 11.00 a.m., on 15.02.2008 at the office of the Assistant Commissioner of Income Tax, Circle-I, Viruthunagar. Thereafter, a Second Notice was issued on 04.07.2008 and called upon the Petitioner to appear for a hearing at 3.00 p.m on 10.07.2008. Instead of participating in the proceedings, the Petitioner has filed the present Writ Petition on 14.11.2008 for the above mentioned relief.

3. The learned counsel for the Petitioner has filed a copy of the

Assessment Order dated 12.10.2010 and 23.12.2011 for the Assessment Year 2008-2009 and for the Assessment Year 2009-2010. According to the Petitioner, the benefit under 10B of the Income Tax Act, 1961 deduction has been disallowed for these two Assessment years.

4. The Petitioner has also filed a copy of the Assessment Order dated 29.12.2008 for the Assessment Year 2006-2007 wherein it has been stated that allowability or otherwise of the deduction under Section 10B will be considered after the outcome of the High Court's Order in the present Writ Petition.

5. Since the Petitioner appears to have made out a *prima-facie* case that it is entitled to deduction under Section 10B of the Income Tax Act, 1961. I am inclined to dispose the present Writ Petition with a direction to the Jurisdictional Officer to pass appropriate orders keeping in mind the Assessment Orders passed for the Assessment Years 2008-2009 and 2009-2010.

6. The Writ Petition stands disposed of. Accordingly, the

Jurisdictional Officer is directed to pass orders within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

04.02.2020

arb
Index: Yes/ No
Internet : Yes/No

To
1. The Secretary,
Government of India,
Board of Approval (EOUs)
Ministry of Commerce & Industry,
Department of Commerce,
Government of India,
Shastri Bhavan, R.P. Marg,
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2. The Director General of Foreign Trade
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C. SARAVANAN, J.

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W.P. No. 27188 of 2008
and
M.P. No. 1 of 2008

<u>*W.P.No.27188 of 2008*</u>

<u>04.02.2020</u>