IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2020

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.8665 of 2013
and
M.P.No.1 of 2013

M/s.Vinbros & Co
Rep. by its Managing Partner
Mr.V.C.Raamsukaesh
23, Romain Rolland Street
Pondicherry 605 001 ... Petitioner

Vs.

Assistant Commissioner of Income Tax
Cricle-I, D.P.Thottam,
Off M.G.Road
Muthialpet,
Pondicherry 605 003 ...Respondent

Prayer: Petition filed under Article 226 of The Constitution of India praying for a writ of certiorari calling for the records in P.A.No./G.I.No.AAAFV0610R dated 25.03.2013 relating to Assessment Year 2005-06 on the file of the Respondent and quash the same.

For Petitioner : Mr.M.Muthukumar

For Respondent : Mr.A.P.Srinivas

ORDER

Challenging the order dated 25.03.2013, passed by the respondent relating to the Assessment year 2005-2006, the petitioner has come up with the present writ petition. By the impugned order, the claim of the petitioner seeking deduction u/s 80IB to the tune of Rs.84,96,222/- was disallowed and added back to the total income.

2.Today, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that the issue involved herein is covered by the decision in CIT v. Vinbros & Co. [(2009) 177 Taxman 217 (Mad.)] which was upheld by the Hon'ble Supreme Court in Commissioner of Income-tax v. Vinbros & Co. [[2012] 25 taxmann.com 367(SC)], wherein it is held that

"Blending and bottling of Indian Manufactured Foreign Liquor (IMFL) would amount to 'manufacture' for the purpose of claiming deduction under Section 80-IB. Hence, the learned counsel sought to set aside the order impugned herein.

3.The learned counsel for the respondent, relying on the averments made in the counter affidavit, submitted that there is alternative remedy available to the petitioner and without exhausting the same, the petitioner has filed this writ petition and hence, the same is not maintainable. However, the learned counsel fairly conceded the submission so made by the learned counsel for the petitioner.

4.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court is of the view that the issue involved herein is squarely covered by the aforesaid decision cited on the side of the petitioner. Hence, following the same, the writ petition stands allowed by setting aside the order dated 25.03.2013 passed by the respondent. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner of Income Tax
Cricle-I,
D.P.Thottam,
Off M.G.Road
Muthialpet,
Pondicherry 605 003.

+1 cc to M/s.N.Muthukumar, Advocate, S.R.No.19589

+1 cc to M/s. A.P.Srinivas, Advocate, S.R.No.19832



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RP(CO)
RN(21/05/2020)