IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM :

THE HON'BLE MR.JUSTICE R.MAHADEVAN
AND
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

T.C.A.NO.703 OF 2009

Commissioner of Income Tax - III
Coimbatore.

... Appellant/Appellant

Versus

M/s.City Mills (P) Ltd.,
7-B Duraisamy Puram, 2nd Street,
Tirupur - 641 602.
PAN-AAACC8792Q

... Respondent/Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, “A” Bench Chennai, dated 18.12.2008 passed in I.T.A.No.2466/Mds/2007, against the order of the Commissioner of Income Tax(Appeals)-II, Coimbatore made in 415C-06-07 dated 12.09.2007 against the order of the Assistant Commissioner of Income Tax, Circle – I, Tirupur made in PAN/GIR.No.AAACC8792Q dated 13.11.2006.

For Appellant : Mr.M.Swaminathan,
Senior Standing Counsel assisted by
Mrs.K.G.Usha Rani,
Junior standing counsel

For Respondent : Mr.R.Sivaraman

J U D G M E N T

(Judgment was delivered by R.MAHADEVAN, J.)

This tax case appeal has been filed by the appellant / Revenue, challenging the order dated 18.12.2008 passed by the Income Tax Appellate Tribunal 'A' Bench Chennai, in I.T.A.No.2466/Mds/2007, relating to the assessment year 2004-05.

2. By order dated 04.08.2009, this court admitted the aforesaid tax case appeal on the following substantial question of law:

> “Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the disallowance deduction under Section 80HHC in a case of MAT assessment is to be worked out on the basis of the adjusted books profits under Section 115JB of the Income tax Act, 1961 is valid?"

3. When the matter was taken up for consideration, the learned counsel appearing for both sides, in unison, submitted that the issue involved herein is covered by the decisions of the Apex Court in Ajanta Pharma Ltd. v. Commissioner of Income Tax [(2010) 327 ITR 305 (SC)] and this Court in Commissioner of Income Tax vs. SPEL Semi conductor Ltd [(2010) 323 ITR 488 (Mad)], wherein it was held that “in an assessment under Section 115 JA of the Income Tax Act, 1961, the deduction under Section 80HHC of MAT assessment is to be worked out on the basis of the adjusted book profits and not on the basis of the profit computed under regular provisions of the Act applicable to the computation of profits and gains of business or profession” and accordingly, the issue was decided in favour of the assessee and against the revenue. It is also submitted that the appeal preferred by the Department as against the judgment of this Court in SPEL Semi conductor Ltd case (supra) was dismissed by the Apex Court.

4. In view of the above, this Tax case Appeal filed by Revenue stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Income Tax - III
   Coimbatore.

2. The Income Tax Appellate Tribunal,
   “A” Bench Chennai.

3. The Assistant Commissioner of Income Tax,
Circle - I, College Road,
2nd Cross, Tirupur - 641 602.

4. The Commissioner of Income Tax(Appeals)-II,
Coimbatore.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.62498

T.C.A.No.703 of 2009

NMI(CO)
RLP(22/12/2021)