IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM :

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

T.C.A.No.905 of 2009

Commissioner of Income Tax III,
Chennai.
... Appellant/Respondent

Vs.

M/s.Rajkumar Impex Pvt. Ltd.,
B 603, Keshav Dugar Apartments,
1, East Avenue,
Kessva Perumal Puram,
R.A.Puram, Chennai - 600 028.
... Respondent/Appellant

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "B" Bench, dated 09.04.2009 passed in I.T.A.No.199/Mds/2008, Assessment Year 2003-04 against the order of the Commissioner of Income Tax (Appeals)-V, Chennai-34, vide ITA No.62/2006-07 dated 15.11.2007, made against the Assessment Order of the Income Tax Officer (OSD), Company Circle-V(3), Chennai, dated 31.03.2006, for the Assessment Year 2003-04, PAN No./GIR No.AAACR35773.

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel

For Respondent : Mr.R.Venkata Narayanan
for M/s.Subbaraya Aiyar

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 09.04.2009 passed by the Income Tax Appellate Tribunal 'B' Bench Chennai ('the Tribunal', for brevity) in I.T.A.No.199 /Mds/2008 for the Assessment Year 2003-04.

2.The above appeal was admitted on 05.10.2009 on the following substantial questions of law :

"1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled for deduction under section 80IA on the disallowance made under section 40A(3) even though such disallowance could not be considered as income 'derived' from the eligible industrial undertaking, in the light of the decisions of Supreme Court in Cambay Electric Supply Industrial Co. Ltd. vs. Commissioner of Income Tax (113 ITR 84), Pandian Chemicals Ltd. vs. Commissioner of Income Tax (262 ITR 278) and Commissioner of Income - tax vs. Sterling Foods (237 ITR 579)?

2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that while computing the deduction under Section 80HHC, the deduction allowed under Section 80IA need not be reduced from the business profits, ignoring the provisions of Section 80IA(9)?"

3.When the matter was taken up for consideration, the learned counsel appearing for the respondent / assessee submitted that during the pendency of this tax case appeal, the assessee has availed the benefit conferred under the Direct Tax Vivad Se Vishwas Act, 2020 and filed necessary declarations, which were accepted and Form 5 / order for full and final settlement of tax arrears, was also issued by the Income tax department, on 06.05.2021. The learned counsel has also filed Form 5 dated 06.05.2021 to that effect.

4.The aforesaid submission made by the learned counsel for the respondent/assessee has also been fairly conceded by the learned senior standing counsel appearing for the appellant/ Revenue.

5.In view of the subsequent development, this court is of the opinion that nothing survives for adjudication in this appeal. Recording the submission so made by the learned counsel on either side, the Tax Case Appeal stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal,
   Chennai 'B' Bench.

2. The Commissioner of Income Tax III,
   Chennai.

3. The Commissioner of Income Tax (Appeals)-V,
   Chennai - 34.

4. The Income Tax Officer (OSD)
   Company Circle - V(3),
   Chennai.

+1cc to Mr.T.Ravi Kumar, Advocate, S.R.No.62427

+1cc to Mr.Subbaraya Aiyar, Advocate, S.R.No.63656

T.C.A.No.905 of 2009

AK-II(CO)
SU(27/12/2021)