IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HON'BLE MR.JUSTICE M. DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE R. HEMALATHA

Tax Case Appeal No.331 of 2010

M/s.RajKumar Exports Pvt. Ltd.,
(now merged with Raj Kumar Impex Pvt. Ltd),
B 603, Keshav Durga Apartments,
No.1, East Avenue,
Keshav Perumal Puram, R.A.Puram,
Chennai - 600 028. ...Appellant

Vs.

The Assistant Commissioner of Income Tax,
Company Circle - V(3),
Chennai - 600 034. ...Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, dated 16.10.2009 passed in I.T.A.No.94/Mds/2009.

Appeal against the order dated 09/06/2008 made in I.T.A.No.593/2006-2007 on the file of the Commissioner of Income Tax (Appeals)V, Chennai.

Appeal against the order dated 27/12/2006 made in P.A. No./GIR No. AAACR3578H/53138-R on the file of the Income Tax OSD Company Circle V(3), Chennai.

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

For Respondent : Mr.T.Ravikumar
Senior Standing Counsel

J U D G M E N T
(Delivered by M.DURAISWAMY, J.)

This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity), is directed against the order dated 16.10.2009 passed by the Income Tax Appellate Tribunal, Madras "B" Bench, ('the Tribunal' for brevity) in I.T.A.No.94/Mds/2009 for the assessment year 2004-05. The above appeal has been admitted on 28.06.2010 on the following Substantial Questions of Law:

> "1.Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the relief u/s.80IA should be deducted from profits and gains of business before computing relief u/s.80HHC?
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> 2.Whether on the facts and in the circumstances of the case, the Tribunal ought to have appreciated that provision u/s.80IA(9) provides for avoidance of double deduction under Section 80IA and 80HHC and does not alter the method of computation of deduction u/s.80HHC?
>
> 3.Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the decision of the Hon'ble Madras High Court in the case of M/s.BGeneral Optics (Asia) Ltd. v. DCIT (315 ITR 400) is applicable to the present case, when the decision was based on the fact that 80IA(9) was not present in the statute book for the relevant year?"

2. We have heard Mr.R.Venkata Narayanan for M/s.Subbaraya Aiyar Padmanabhan, learned counsel for the appellant/assessee and Mr.T.Ravikumar, learned Senior Standing Counsel for the respondent/Revenue.

3. It may not be necessary for this Court to decide the Substantial Questions of Law framed for consideration on account of certain subsequent developments. The Government of India enacted the Direct Tax Vivad Se Vishwas Act, 2020 (Act 3 of 2020) to provide for resolution of disputed tax and for matters connected therewith or incidental thereto. The Act of the Parliament received the assent of the President on 17th March 2020 and published in the Gazette of India on 17th March 2020.

4. We are informed by the learned counsel for the appellant/assessee that the assessee had already been issued with Form-5 on 23.04.2021 and the learned counsel for the appellant seeks permission of this Court to withdraw the appeal.

5. In view of the submission made by the learned counsel for the appellant, the Tax Case Appeal stands dismissed as withdrawn. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. Income Tax Appellate Tribunal, Madras "B" Bench

2. The Assistant Commissioner of Income Tax,
   Company Circle - V(3),
   Chennai - 600 034.

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

+1 Cc to M/s. Subbaraya Aiyar, Advocate sr 26513.
+1 CC to Mr.T. Ravi Kumar, Advocate sr 26254.

Tax Case Appeal No.331 of 2010

RSV(CO)
SP(14/07/2021)