IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

Tax Case Appeal Nos.164 to 166 of 2014

M/s.Keesara Plastics Pvt Ltd.,
L-5, SIDCO Industrial Estate,
Kodungaiyur, Chennai - 118. ..Appellant in all appeals

Vs

The Assistant/Deputy Commissioner
of Income Tax,
Company Circle - II(4),
Chennai - 4. ..Respondent in all appeals

COMMON PRAYER: Appeals under Section 260A of the Income Tax Act, 1961 against the common order dated 17.07.2013 made in ITA.Nos.1326/Mds/2012, 1327/Mds/2012 and 917/Mds/2013 for the assessment years 2007-08, 2008-09 and 2009-10 respectively on the file of the Income Tax Appellate Tribunal, 'A' Bench, Chennai.

Appeal against the order dated 18/01/2013, 22/03/2012 and 16/03/2012 respectively made in ITA.No.654/2011-12/A.III, ITA.No.423/10-11/A.III and ITA.No.217/09-10/A.III respectively on the file of the Commissioner of Income Tax(Appeals)-III, Chennai

and As Appeal against the order dated 16/12/2011, 30/12/2010 and 27/11/2009 respectively made in PAN./GIR.No.AAACK4025C; on the file of the Assistant Commissioner of Income Tax Company Circle -II(4), Chennai -34 for the Assessment year 2009-10, 2008-09 and 2007-08 respectively.

For Appellant : Mr.P.J.Rishikesh

For Respondent: Mr.Karthik Ranganathan, SSC

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COMMON JUDGMENT
(Delivered by T.S.Sivagnanam,J)

These appeals have been filed by the assessee under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) challenging the common order dated 17.07.2013 made in ITA.Nos.1326/Mds/2012, 1327/Mds/2012 and 917/Mds/2013 for the assessment years 2007-08, 2008-09 and 2009-10 respectively on the file of the Income Tax Appellate Tribunal, 'A' Bench, Chennai ('the Tribunal' for brevity).

2. The appeals were admitted on 27.03.2014 on the following substantial questions of law:

> *"a) Whether, in facts and circumstances of the case, the Tribunal was right in denying deduction to the assessee under Section 80IC of the Income Tax Act, 1961, especially when the Tribunal has itself given a positive finding that the assessee is carrying out manufacturing activity, which is sine quo non for claiming exemption under Section 80IC of the Income Tax Act, 1961?*
>
> *b) Whether, in facts and circumstances of the case, the Tribunal was right in making an enquiry as to whether substantial manufacturing activity is being carried on at Chennai unit or Dehradun unit, which is not a condition precedent under Section 80IC of the Income Tax Act, 1961?*
>
> *c) Whether, in facts and circumstances of the case, the Tribunal has jurisdiction to deny exemption under Section 80IC on the ground that only small quantity of goods are manufactured at Dehradun?*
>
> *d) Whether, in facts and circumstances of the case, the Tribunal was right in going into the accounts of the assessee's units and make a roving enquiry especially when Section 80IC does not contemplate so?*
>
> *e) Whether, in facts and circumstances of the case, the Tribunal was right in holding that the Assessee has adopted colorable devise to claim exemption under Section 80IC of the Income Tax Act, 1961?"*

3. We have heard Mr.P.J.Rishikesh, learned counsel for the appellant and Mr.R.Karthik Ranganathan, learned Senior Standing Counsel appearing for the respondent-Revenue.

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4. The learned counsel for the appellant/assessee submits that the assessee already filed the declaration/undertaking under the Vivad Se Vishwas Scheme and awaiting orders to be passed in Form No.3.

5. In the light of the subsequent event, the assessee is given liberty to restore these appeals in the event the ultimate decision taken on the declaration filed by the assessees under Section 4 of the said Act is not in favour of the assessees. If such a prayer is made, the Registry shall entertain the prayer without insisting upon any application to be filed for condonation of delay in restoration of the appeals and on such request made by the assessees by filing a miscellaneous petition for restoration, the Registry shall place such petition before the appropriate Division Bench for orders.

6. The tax case appeals stand disposed of with the aforementioned liberty. Consequently, the substantial questions of law framed are left open. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Income Tax Appellate Tribunal,
Madras 'A' Bench, Chennai.

2. The Assistant/Deputy Commissioner
of Income Tax,
Company Circle - II(4),
Chennai - 4.

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

4.The Assistant Commissioner of Income Tax,
Company Circle -II(4),
Chennai -34.

+3cc to Mr.P.J.Rishikesh, Advocate SR.NO..20875

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