IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.No.431 of 2011

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

Versus

M/s. Cooper Bussmann India (P) Ltd.,
No.3A, EVR Street, Sedarapet,
Pondicherry 605 111 ... Respondent/Appellant
PAN : AABC80431R

Tax Case Appeal filed under Section 260 A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras "C" Bench, dated 11.04.2008 in ITA.No.394/Mds/2007.

As against the order dated 22.11.2006 by the Office of the Commissioner of Income Tax (Appeals) XI, Chennai in I.T.A.No.161/06-07 dated 22.11.2006 and as against the order dated 29.08.2005 by the Office of the Assistant Commissioner of Income Tax, Circle I Puducherry in P.A.No/G.I.No: 1014-C/AABC80431R Assessment Year 2002-03.

For Appellant : Mr. J. Narayanaswamy
Standing Counsel

For Respondent: Mr. Joseph Prabakar

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

This Tax Case Appeal has been filed by the appellant / revenue, questioning the correctness of the order dated 11.4.2008 passed by the Income Tax Appellate Tribunal "C" Bench, Chennai in ITA.No.394/Mds/2007.

2. On 11.10.2011, the appeal was admitted by this Court raising the following substantial questions of law;

> '1. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is entitled to the benefit of Section 80HHC, when such a claim was made neither in the original return nor in the revised return, and no audit report was filed even during the assessment proceedings?
>
> 2. Whether a claim for deduction under Section 80HHC could have been validly entertained by the CIT(A), when it was not made before the assessing officer, and the assessment was made under Section 144 after rejection of books of accounts?'

3. When the matter was taken up for consideration, the learned counsel for the appellant / Revenue brought to the notice of this court the Circular No.17/2019 dated 08.08.2019 issued by the Central Board Direct Taxes, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore). It is also submitted that the tax effect in this appeal is less than the threshold limit.

4. In the light of the aforesaid submissions made by the learned counsel for the appellant / Revenue, the present appeal, wherein, the tax effect is said to be less than the monetary limit imposed, is dismissed as withdrawn, keeping open the substantial questions of law for determination in an appropriate case. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

msr

To

1. The Income Tax Appellate Tribunal “C” Bench,
   Chennai.

2. The Commissioner of Income Tax, Chennai.

3. The Commissioner of Income Tax (Appeals) XI,
121, M.G.Road, Chennai -34.

4. The Assistant Commissioner of Income Tax,
Circle -I, Pondicherry.

SSN(CO)
GMY(07/07/2022)