IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No.200 of 2009 (O&M)
Date of decision: 14.02.2023

M/s Flora Exports

…Appellant

Vs.

Commissioner of Income Tax (Appeals), Karnal and another

…Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Akshay Bhan, Senior Advocate,
with Mr. Amandeep Singh Talwar, Advocate,
for the appellant.

Ms. Gauri Neo Rampal, Standing Counsel,
for the respondents.

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Ritu Bahri, J. (oral)

The instant, appeal under Section 260 A of the Income Tax Act, 1961, has been filed against the order dated 29.08.2008 passed by the Income Tax Appellate Tribunal, Delhi, whereby appeal filed by by M/s Flora Exports-assessee against the order dated 10.01.2007 passed by the Commissioner of Income Tax (Appeals), Karnal, has been dismissed.

After perusing the impugned order, it transpires that in the case of the present assessee, the main export house had declared that it would not claim and did not claim the benefit of Duty entitlement passbook scheme for the shipments, details of which, were given and also declared that it has no objection, if the benefit is claimed by M/s Flora Exports-assessee (appellant). This finding of fact has been recorded by the Tribunal and the claim of the assessee is that for the same export, only he has claimed the benefit of deduction as an exporter and this claim cannot be rejected on the ground that the appellant is a supporting manufacturer.

Hon’ble the Supreme Court in ***Commissioner of Income Tax, Karnal (Haryana) vs. M/s Carpet India, Panipat (Haryana),*** 2019 AIR (Supreme Court) 5032, has allowed an appeal, filed by the revenue and remanded the case to the Appellate Authority to pass a fresh order after giving opportunity to the parties to adduce any evidence/necessary .

Keeping in view the judgment passed by Hon’ble the Supreme Court in ***M/s Carpet India’s*** case (supra), the impugned order dated 29.08.2008 passed by the Income Tax Appellate Tribunal, Delhi, Bench ‘C’, Delhi, is set aside and the matter is remanded to the said Tribunal to pass a fresh order after affording opportunity to the parties to adduce any evidence/necessary facts.

Disposed of accordingly.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

14.02.2023
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No