IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

T.C.No.863 of 2008

The Commissioner of Income-Tax,
Tamil Nadu – III, Madras. ..Appellant

vs

SIP Technologies & Exports Ltd.,
Module G3 & G4 Elnet Software City,
CPT Road, Taramani,
Chennai – 600 013. .. Respondent

Prayer : Appeal filed under Section 260A of the Income Tax Act against order of the Income-Tax Appellate Tribunal 'C' Bench, Chennai dated 15.06.2007 passed in I.T.A.No.2401/Mds/2005.

For Appellant : Mr.J.Narayanaswamy
Senior Standing Counsel

For Respondent : Mr.S.Sriraman

JUDGMENT
(Delivered by Dr. ANITA SUMANTH.,J)

Heard Mr.J.Narayanaswamy, for the appellant and Mr.Sriraman, for the respondent.

2. The substantial question of law arising for determination in this matter reads thus:-

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in

holding that expenditure incurred in foreign currency which are excluded from the export turn over should also be excluded from total turn over in order to grant relief under 10A of the Income-Tax Act, 1961?"

3. Both learned counsel would submit that the question of law that arises for determination in this case is covered by a judgment of the Supreme Court in the case of *Commissioner of Income-Tax, Central III, New Delhi v HCL Technologies Limited* [404 ITR 719]. The operative portion of the judgment read as follows:-

"18) Accordingly, the formula for computation of the deduction under Section10A of the Act would be as follows:

$$\text{Export Profit} = \text{total Profit of the Business} \times \frac{\text{Export turnover as defined in Explanation 2 (IV) of Section 10A of IT Act}}{\text{Export turnover as defined in Explanation 2(IV) of Section 10A of the IT Act + domestic sale proceeds}}$$

19) In the instant case, if the deductions on freight, telecommunication and insurance attributable to the delivery of computer software under Section10A of the IT Act are allowed only in Export Turnover but not from the Total Turnover then, it would give rise to inadvertent, unlawful, meaningless and illogical result which would cause grave injustice to the 19 Respondent which could have never been the intention of the legislature.

20) Even in common parlance, when the object of the formula is to arrive at the profit from export business, expenses excluded from export turnover have to be excluded from total turnover also. Otherwise, any other interpretation makes the formula unworkable and absurd. Hence, we are satisfied that such deduction shall be allowed from the total turnover in same proportion as well.

21) On the issue of expenses on technical services provided outside, we have to follow the same principle of interpretation as followed in the case of expenses of freight, telecommunication etc., *otherwise the formula of calculation would be futile. Hence, in the same way, expenses incurred in foreign exchange for providing the technical services outside shall be allowed to exclude from the total turnover.*

22) In view of above discussion, we are of the considered view that these instant appeals are devoid of merits and deserve to be dismissed. Accordingly, all the connected matters and interlocutory applications, if any, are disposed of with no order as to costs."

4. In light of the above, the question of the law is answered in favour of the assessee and against the Revenue. Hence, this tax case appeal is dismissed. No costs.

[A.S.M., J] [G.A.M., J]
24.10.2024

Index:Yes/No
Neutral Citation:Yes
ssm

DR. ANITA SUMANTH.,J.
and
G. ARUL MURUGAN.,J.

ssm

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