



T.C.A.No.1334 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 24.07.2025

PRONOUNCED ON: 30.07.2025

CORAM

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE
AND

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

T.C.A.No.1334 of 2009

M/s.Super Spinning Mills Ltd.,
Elgi Towers Green Fields,
737-D, Puliakulam Road,
Coimbatore 641 045.

Appellant

Vs

The Additional Commissioner
of Income Tax,
Company Circle 1(2),
Coimbatore.

Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of Income Tax Appellate Tribunal, "A" Bench, Chennai, dated 28.08.2009 passed in ITA No.978/MDS/2008 for the AY 2003-04.



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For Appellant : Mr.A.S.Sriraman
For Respondent : Mr.V.Mahalingam
Senior Standing Counsel

JUDGMENT

(Delivered by SUNDER MOHAN, J)

The Tax Case Appeal impugns an order dated 28.08.2009 passed by the Income Tax Appellate Tribunal 'A' Bench, Chennai, *[hereinafter referred to as 'ITAT']*, which had partly allowed the appeal filed by the appellant / assessee.

2. On 07.12.2009, the appeal was admitted on the following substantial questions of law:

"(i) Whether the Income Tax Appellate Tribunal is right in law in holding that the assessment order passed under Section 143 read with Section 147 is valid without considering the fact that once the proceedings initiated under Section 147 is dropped, then making assessment under that section would render the assessment invalid?

(ii) Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in law in holding that mistake of making assessment under Section 143 read



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with Section 147 can be rectified by invoking Section 292B?

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(iii) Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in law in treating the interest income under the head 'income from other sources' without considering the facts of the present case?
And

(iv) Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in law in upholding that the interest income cannot be netted off against interest paid when in fact the interest income arises from the business of the assessee?"

3. The appeal arises under the following circumstances:

(a) On 25.11.2003, the assessee filed their return of income for the assessment year 2003-2004 declaring a total income of Rs.9,76,23,383/-.

(b) On 19.12.2003, the assessment was completed under Section 143(1) of the Income Tax Act, 1961 [*hereinafter referred to as the 'the Act'*], and the assessee was given a refund of Rs.48,651/-.



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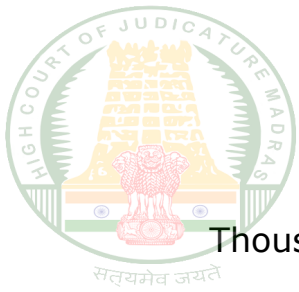
(c) On 09.07.2004, the revenue had issued a notice under Section 148 of the Act.

(d) On 03.09.2004, the Assistant Commissioner of Income Tax, Company Circle-I (2), Coimbatore, had withdrawn the notice under Section 148 of the Act and had observed that there was time to take up the case for regular scrutiny and the notice under Section 143(2) of the Act would be issued separately.

(e) On the same day i.e., on 03.09.2004, a notice under Section 143(2) of the Act was issued to the assessee.

(f) The assessee responded to the notice, produced documents and also attended personal hearing.

(g) The assessment was finalised and an assessment order was passed on 15.03.2006, determining the income at Rs.18,05,54,115/- [Rupees Eighteen Crores Five Lakhs Fifty-Four



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Thousand One Hundred and Fifteen Only] by disallowing certain deductions claimed by the assessee while computing the total income.

(h) The assessee challenged the said order before the Commissioner of Income Tax (Appeals)-I, Coimbatore [*hereinafter referred to as 'CIT(A)'*], *inter alia* on the ground that what was done by the assessing officer was a reassessment, which was based on the facts and information that was already available at the time of return of income and that the disallowing of the deductions by the assessing officer, were not in accordance with law.

(i) By the order dated 12.03.2008, CIT(A) proceeded on the basis that the impugned assessment order was passed on a reassessment under Section 147 of the Act and held that the proceedings were valid. The CIT(A) had set aside the disallowance in respect of certain deductions and disallowed other deductions and partly allowed the appeal.



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4 (i) Mr.A.S.Sriraman, the learned counsel for the appellant/assessee submitted that the third and fourth substantial questions of law extracted above are covered by two decisions. He would submit that the third substantial question of law would be covered by the judgment of this Court in ***AVM Cini Products v. Deputy Commissioner of Income Tax***, reported in [2021] 123 taxmann.com 41 (Madras).

(ii) The learned counsel further submitted that the fourth substantial question of law, is covered by another judgment of this Court dated **12.06.2025** made in ***TCA No.1133 of 2010 [Commissioner of Income Tax-LTU v. M/s.Rane Brake Lining Ltd]***.



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(iii) As regards the first two substantial questions of law, the learned counsel submitted that the assessment order that was impugned before CIT(A) and ITAT was passed under Section 143 (3) r/w 147 of the Act and that the contents of the order would show that the assessment order proceeded on the basis that it was a reassessment pursuant to the notice under Section 148 of the Act. He would further submit that even the CIT(A) had proceeded on the basis that the assessment order was passed under Section 147 of the Act. He would therefore submit that the ITAT erred in observing that it would make no difference as to whether the order was passed under Section 143(3) of the Act or under Section 147 of the Act, as the scope of the assessment under both the provisions were one and the same in substance.

(iv) The learned counsel further submitted that if the assessment order is not clear as to whether it was under Section 143 (3) of the Act or under Section 147 of the Act, the same cannot



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be rectified by invoking Section 292B of the Act.

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(v) The learned counsel therefore would submit that the impugned order before us which held that the assessment officer was entitled to pass the assessment order, is erroneous and liable to be set aside. He would therefore submit that the first two substantial questions of law also have to be answered in favour of the assessee.

5. (i) Mr.V.Mahalingam, learned Senior Standing Counsel for the revenue *per contra* fairly submitted that the third and fourth substantial questions of law are covered by the judgments relied upon by the learned counsel for the assessee. However, he would contend that the assessment order was passed only under Section 143(3) of the Act and not under Section 147 of the Act and both the assessee and the revenue had proceeded on the basis that the impugned assessment order was under Section 143(3) of the Act. He would further submit that merely because the CIT(A) had observed that it was a reassessment under Section 147 of the Act,



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it would not change the character of the order, as in substance, it was only an order under Section 143(3) of the Act.

(ii) The learned standing counsel would further submit that the ITAT had considered this aspect and had rightly held that there was no ambiguity in the minds of the parties that the assessment order was processed under Section 143(3) of the Act and the wrong provision quoted in the assessment order would not render the assessment as a nullity.

6. We would answer the third and fourth substantial questions of law before proceeding with the other two substantial questions of law.

7. In **AVM Cine Products's case** [cited supra], this Court had held as follows:

"23. As far as the interest income is concerned, clause (id) of sub-section (2) of section 56 clearly provides that income by way of interest on securities will be taxable under section 56, if only such interest income is not chargeable to income-tax under the head "Profits and gains of business or



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profession". Thus, interest income earned in the ordinary course of business is excluded from section 56 of the Act. An interest income earned by the assessee or received by the assessee during the year in question, in the ordinary and regular course of business is an integral part of business income itself. Like hundreds of business decisions taken by the assessee in its business, the deposit of money with the bank either under compulsion like maintaining the margin money with the bank or for opening of foreign letters of credit or for obtaining the loan itself or cash credit facility or the voluntary deposits made by it of the surplus funds, which would otherwise be lying idle, the assessee, in its own business or commercial prudence, makes a deposit in bank and incidentally earns an interest through it or interest from staff loans or customers on the belated payments and such interest income is nothing but its regular business income.

24. Section 56 of the Act, providing for "income from other sources", cannot be applied at all to such interest income. The income from business need not be directly related only to sale of goods or services. It can be from the sources like bank deposits, which are idle or inactive sources and do not involve any actual trading or manufacturing activity on the part of the assessee. Therefore, interest income earned by the assessee in the ordinary course of business, cannot be said to be excluded from the head "Income from business or profession" in Part D, comprising of sections 28 to 44DB in Chapter IV, which deals with computation of the total income in the heads of income as per



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section 14 of the Act. If by no stretch of imagination, such interest income could be included under the head "Profits and gains of business or profession" only then it could fall in the residuary clause of "income from other sources" under section 56 of the Act and not otherwise.

25. We do not find any such occasion to artificially bifurcate and dissect the interest income earned by the assessee in the present case in its ordinary course of business, so as to take it out of the ambit of deduction available to it under section 80-IA of the Act. The efforts on the part of the Revenue authorities to create such artificial compartments in the "business income" of the assessee, merely to reduce the quantum of deduction available to the assessee under section 80-IA of the Act of which the eligibility of the assessee is not even in doubt, is nothing but a whimsical and the arbitrary view of the Revenue authorities and the same is opposed to common sense and business prudence of a common businessman."

8. The above observations as rightly submitted by the learned counsel for the assessee and conceded by the learned standing counsel for the revenue would squarely answer the third substantial question of law. Accordingly, we answer the same in favour of the assessee.



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9. As regards the fourth substantial question of law, both the learned counsel for the assessee and the revenue submitted that this question of law also has to be answered in favour of the assessee, in view of the judgment of the Hon'ble Supreme Court in **Shital Fibers Ltd. v Commissioner of Income-tax** reported in **[2025] 174 taxmann.com 807 (SC)**. This Court had on that basis allowed appeals in similar cases including in TCA No.1133 of 2010 [**Rane Brake Lining's case (cited supra)**]. The relevant observations of this Court reads as follows:

"3. The first question of law as framed in this appeal is squarely covered by the judgment of the Apex Court in the case of **Shital Fibers Limited v. Commissioner of Income Tax [2025 SCC OnLine SC 1178]**, where the Apex Court while approving the view taken by the Bombay High Court in the case of **Associated Capsules (P) Ltd. v. Deputy Commissioner of Income Tax and another [(2011) SCC OnLine Bombay 27]**, which was approved by the Apex Court in the case of **Assistant Commissioner of Income Tax, Bangalore v. Micro Labs Limited [(2015) 17 SCC 96]**, has held that deduction under Section 80HHC of the Income Tax Act, 1961 (the Act) had to be given without reducing the deduction under Section 80IB of the Act."

Accordingly, we answer the fourth substantial question of law in favour of the assessee.



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10. The first two substantial questions of law referred above deal with the issue as to whether the assessment order itself is valid in law. As stated earlier, it is the case of the assessee that the assessment order was in fact passed under Section 147 of the Act and the conditions laid to invoke Section 147 of the Act were not fulfilled and therefore, the entire assessment order is liable to be set aside. It is also the assessee's case that no issue had escaped assessment for invoking Section 147 of the Act.

11. Admittedly, a notice was issued under Section 148 of the Act on 09.07.2004 and the same was withdrawn on 03.09.2004. The letter withdrawing the notice under Section 148 of the Act, issued to the assessee reads as follows:

"Kindly refer to the above Return of Income filed by you on 25th November, 2003.

A notice U/s. 148 was issued by my predecessor on 9.7.2004, to re-open the assessment.

It is seen that there is still time to take up the case in regular scrutiny. Hence, the re-opening U/s.147 vide issue of this U/s.148 notice dated 9.7.2004 is hereby dropped.

This case is taken up for regular scrutiny. Notice



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U/s.143(2) is hereby issued for regular scrutiny separately."

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12. The above letter makes it abundantly clear that the case was taken up for regular scrutiny. Accordingly, a notice was issued under Section 143(2) of the Act on 03.09.2004.

13. However, we find that in the assessment order, the provision of law is stated as, "**143(3) / 147**". In the assessment order, the assessing officer had inadvertently not stated about the withdrawal of the notice issued under Section 148 of the Act and had proceeded to finalise the assessment. The CIT(A) erroneously proceeded on the basis that the assessment order was made under Section 147 of the Act and held that the power under Section 147 of the Act was wide enough to cover items, which had come to the knowledge of the assessing officer during the course of the assessment. The ITAT held that the parties proceeded on the basis that the assessment order was made under Section 143(3) of the Act and not under Section 147 of the Act and wrong quoting of the provision is curable under Section 292B of the Act.



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14. The letter that we have extracted above makes it evident that the notice under Section 148 of the Act was withdrawn and the case was taken up for regular scrutiny. In fact, a notice was issued under Section 143(2) of the Act, on the very same day. It is not in dispute that the assessing officer had at the relevant point of

time was empowered to take up the case for regular scrutiny as it was not beyond the time stipulated. The assessment order though had referred to Section 147 of the Act, the reading of it as a whole would indicate that it was an order under Section 143(3) of the Act.

15. We find that though the CIT(A) had erred in construing the order as one under Section 147/148 of the Act, the ITAT had rightly observed that the parties i.e., the assessee and the revenue had proceeded that it was an order under Section 143(3) of the Act.

16. It is well settled that wrong quoting of a provision or quoting a provision in addition to the right provision under which



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the order was passed would not invalidate any proceeding, if from an order of proceeding it is clear that it has been done in exercise of a power conferred under a particular provision.

17. In this case, we are convinced that the order was actually passed under Section 143(3) of the Act and the wrong quoting of Section 147 of the Act in the assessment order would not render the order as nullity. Section 292(b) of the Act, would certainly cover the mistakes of this kind.

18. The learned counsel for the assessee had towards the end of his argument submitted that he is aggrieved by a particular observation made by the ITAT which reads as follows:

"7. Moreover, when the scope of assessment u/s.143(3) of the Income Tax Act, 1961 and u/s.143(3) r.w.s.147 is same in substance, then we fail to understand how the assessee's interest is prejudiced by passing an order under either of the provisions when other requirements and conditions for passing the order are fulfilled....."

19. We agree with the learned counsel for the assessee that



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the scope of the proceedings under Section 143(3) and Section 147 of the Act are not one and the same and the finding of the ITAT to the contra, cannot be justified. However, in the facts and circumstances, since we have found that it is an order under Section 143(3) of the Act, that would hardly make any difference in view of the final conclusion made by us. Accordingly, we answer the first two substantial questions of law, in favour of the revenue.

20. In view of the answers to the substantial questions of law, the Tax Case Appeal stands partly allowed. There shall be no order as to costs.

(MANINDRA MOHAN SHRIVASTAVA, CJ)

(SUNDER MOHAN,J)
30.07.2025

Index: Yes/No

Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN, J.

ars

To

1. The Income Tax Appellate Tribunal,
"A" Bench, Chennai.
2. The Commissioner of Income Tax (Appeals)-I
Coimbatore.
3. The Assistant Commissioner of Income Tax,
Company Circle-I(2), Coimbatore.

Pre-delivery Judgment in
T.C.A.No.1334 of 2009

30.07.2025