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TCA Nos. 193, 194 and 195 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-12-2025

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THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

TCA Nos. 193, 194 and 195 of 2010

Madras Security Printers
#19, T.H. Road, Chennai-600 081.

..Appellant in all TCA's

Vs

The Joint Commissioner Of
Income Tax Special Range VII Chennai

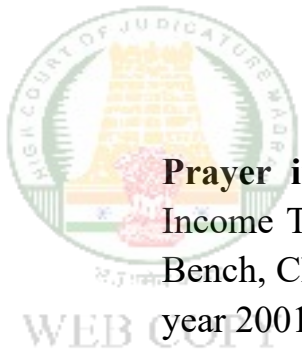
..Respondent in
TCA.No.193 of 2010

The Asst Commissioner Of
Income Tax Business Circle VI Chennai

..Respondent
TCA.Nos.194 and 195 of
2010

Prayer in TCA.No.193 of 2010: Appeal filed under Section 260A of the Income Tax Act, 1961 against order of the Income Tax Appellate Tribunal 'A' Bench, Chennai dated 17.10.2008 in ITA.No.1529/Mds/2006 for the assessment year 1999-2000.

Prayer in TCA.No.194 of 2010: Appeal filed under Section 260A of the Income Tax Act, 1961 against order of the Income Tax Appellate Tribunal 'A' Bench, Chennai dated 17.10.2008 in ITA.No.1531/Mds/2006 for the assessment year 2002-2003.



Prayer in TCA.No.195 of 2010: Appeal filed under Section 260A of the Income Tax Act, 1961 against order of the Income Tax Appellate Tribunal 'A' Bench, Chennai dated 17.10.2008 in ITA.No.1250/Mds/2005 for the assessment year 2001-02.

In all TCA's

For Appellant(s): Mr.A.S.Sriraman

For Respondent(s): Mr.J.Narayanaswamy

COMMON JUDGMENT

(Judgment of the Court was delivered by Dr.Anita Sumanth J.)

The common questions of law that have been admitted on 27.04.2010 are extracted below:

(i) Where on the facts and in the circumstances of the case, the appellant is not entitled to relief under Section 80IA of the Income Tax Act? and

(ii) Where on the facts and in the circumstances of the case, the Assessing Officer was justified in invoking the provisions of explanation (baa) to sub-section 4A of section 80HHC in respect of manufactured product as job work?

2. The appeals relate to assessment years 1999-2000, 2001-02 and 2002-03 and the assessee is an exporter.

3. Mr.Sriram, learned counsel for the assessee and Mr.J.Narayanaswamy, learned Senior Standing Counsel for the revenue are ad idem on the position that the issue arising from the first substantial question of law is covered in favour of the assessee by a decision of this Court in *Velayudhaswamy Spinning Mills (P) Ltd. V. Assistant Commissioner of Income Tax* (340 ITR 472).



4. An identical question that had come up for consideration in that matter as well and the Bench took note of the specific provision under Section 80IA(5) of the Income Tax Act, 1961 (in short 'Act') as well as the decision that had been rendered earlier by this Court in *Commissioner of Income Tax, Chennai - 1 V. TTK Pharma Limited, Chennai* (T.C.A.No.298 of 2004 dated 23.12.2009), wherein it has been crystallised as follows:

'The cumulative consideration of the principles set out in the above referred to decisions and the other factors involved in this case, wherein admittedly the entire depreciation allowance and development rebate for the past assessment years were fully set off against the total income of the assessee for those assessment years and no further depreciation allowance or development rebate remain unabsorbed and nothing could be deducted in respect of the set off while determining the deduction under Section 80I of the Act.'

5. After an elaborate discussion, and following the ratio of the aforesaid decision, the Bench answers the question in favour of the assessee. Substantial question of law No.1 is thus answered in favour of the assessee and against the revenue.

6. As far as the second issue is concerned, the Assessing Authority has excluded 90% of the labour charges from the ambit of 'Export Profits' applying Explanation (baa) to Sub-section (4A) of Section 80 HHC of the Act. Ultimately, since the computation of business income resulted in a negative figure, the claim under Section 80HHC had been negated. The assessee



succeeded in first appeal and the matter was carried by the Department before the Income Tax Appellate Tribunal ('Tribunal').

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7. The ground raised by the revenue before the Tribunal had been that while job work charges would stand encompassed within the head 'charges', 90% thereof would stand reduced from the ambit of 'profits of the business' in line with Explanation (baa) to Section 80 HHC. There is no infirmity in this. In order to effectively compute the deduction under Section 80HHC, it is necessary to take note of all other components of the formula as well. In doing so, the Tribunal has relied upon and applied the ratio of the judgment in *CIT V.*

K.Ravindranathan Nair (295 ITR 228), extracting the following paragraph:

'In the above formula there existed four variables, namely, business profits, export turnover, total turnover and 90% of the sums referred to in clause (baa) to the said Explanation. In the computation of deduction under Section 80HHC all four variables had to be taken into account. All four variables were required to be given weightage. The substitution of Section 80HHC(3) secures profits derived from the exports of eligible goods. Therefore, if all the four variables are kept in mind, it becomes clear that every receipt is not income and every income would not necessarily include element of export turnover. This aspect needs to be kept in mind while interpreting clause (baa) to the said Explanation. The said clause stated that 90% of incentive profits or receipts by way of brokerage, commission, interest, rent, charges or any other receipt of like nature included in Business Profits, had to be deducted from Business Profits computed in terms of Sections 28 to 44D of the I.T. Act. In other words, receipts constituting independent income having no nexus with exports were required to be reduced from Business Profits under clause (baa). A bare reading of clause (baa)(1) indicates that receipts by way of brokerage, commission, interest, rent, charges etc. formed part of gross total income being Business Profits. But for the purposes of working out the formula and in order to avoid distortion of arriving export profits clause (baa) stood inserted to say that although incentive profits and "independent incomes" constituted part of gross total income, they had



to be excluded from gross total income because such receipts had no nexus with the export turnover. Therefore, in the above formula, we have to read all the four variables. On reading all the variables it becomes clear that every receipt may not constitute sale proceeds from exports. That, every receipt is not income under the I.T. Act and every income may not be attributable to exports. This was the reason for this Court to hold that indirect taxes like excise duty which are recovered by the taxpayers for and on behalf of the government, shall not be included in the total turnover in the above formula (See: Commissioner of Income Tax, Coimbatore v. M/s. Lakshmi Machine Works - 2007(6) Scale 168).'

8. In light of the aforesaid, reduction of 90% of the job works under the head 'profits of the business' in the numerator and retention of the same as part of the total turnover in the denominator is correct. The second substantial question of law is answered accordingly.

9. These Tax Case (Appeals) are disposed in terms of this order. No costs.

(A.S.M.,J.) (M.S.K.,J.)

02-12-2025

Index: Yes

Speaking order

Neutral Citation: Yes

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To

1.The Joint Commissioner Of
Income Tax Special Range VII Chennai

2. The Asst Commissioner Of
Income Tax Business Circle VI Chennai



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