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TCA No. 789 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2026

CORAM

**THE HON'BLE DR JUSTICE G. JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SHAMIM AHMED**

Tax Case Appeal No. 789 of 2008

The Commissioner of Income Tax,
Central I, Madras.

..Petitioner

Vs

M/s.Mohan Breweries & Distilleries Ltd.,
Rayala Towers II Floor, 158, Anna Salai,
Chennai-2.

..Respondent

PRAYER: Tax Case (Appeal) is filed under Section 260A of the Income-Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai “B” Bench, dated 24.08.2007 passed in ITA No.2342/Mds/2005 for the Assessment Year 1999-2000.

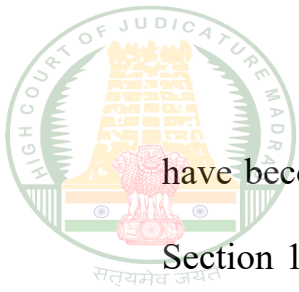
For Petitioner: Mr.D.Prabhu Mukunth Arunkumar

For Respondent: Mr.R.Vijayaraghavan For
M/s.Subbaraya Aiyar Padmanabhan
Ramamani

JUDGMENT

(Order of the Court was made by Dr.G.Jayachandran J.)

This Tax Case Appeal has been filed by the Revenue challenging the order of the Income Tax Appellate Tribunal (ITAT) holding that amounts that



have become a bad and irrecoverable debts are allowable as a deduction under Section 115JA of the Income Tax Act and that the filing of an audit certificate before the Appellate Authority is sufficient to substantiate the claim for deduction under Section 80HHC.

2. On considering the grounds of appeal, this Court has framed the following substantial questions of law:-

“1. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in deleting the addition of Rs.7,49,870/- for bad and doubtful debts in respect of book profits under Section 115JA of the Income Tax Act, 1961?

2. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in allowing the deduction in respect of Section 80IA/80HHC of the Act, even though the audit report has not been filed before the completion of the assessment is valid in law?”

3. The learned counsel appearing for the appellant / Department, with regard to the first question of law, submitted that the provision for bad and doubtful debts must be added back while computing book profits under Section 115JA of the Income Tax Act, 1961. This is in view of Explanation (g) to Section 115JA(2), which was inserted by the Finance (No.2) Act, 2009, with



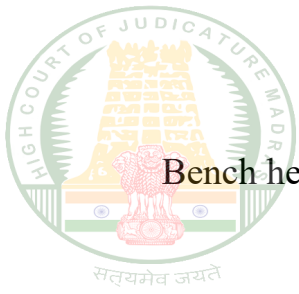
retrospective effect from 01.04.1998.

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4. A reading of Section 115JA, shows that it deals with the computation of book profits. The Explanation to the Section clarifies that 'book profit' includes any amount set aside as a provision for diminution in the value of any assets. The amendment, which has been given retrospective effect, disallows deductions in respect of provisional diminution in the value of any asset, including bad and doubtful debts.

5. In this context, the contention of the Department that the Tribunal ought not to have deleted the addition of Rs.7,49,870/- towards bad and doubtful debts while computing book profits deserves to be upheld, since the Tribunal failed to consider the impact of the retrospective amendment. Hence, the first question of law is answered in favour of the Revenue and against the assessee.

6. As far as the second question of law is concerned, the issue of submitting an audit report at the appellate stage to substantiate a claim for deduction under Section 80IA(7) is no longer *res integra*. This issue is covered by the judgment of the Coordinate Bench in TCA.No.966 of 2013, in the matter of *CIT, Madurai Vs. M/s.Ramco Cements Limited*, Wherein, the Division

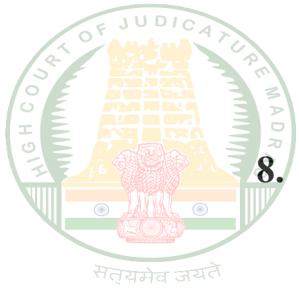


Bench held as below:-

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“8. Thus, it is crystal clear from the aforesaid provisions that the assessee should furnish the audit report along with his return of income, only pursuant to the amendment by the Finance Act, 2020 with effect from 01.04.2020. Prior to that, the requirement of filing the audit report along with the return of income is not mandatory, but directory and the audit report can be filed at any time before framing of assessment, so as to meet out the requirement of Section 80IA(7). It is also settled law that the taxing statute should be read prospectively and not retrospectively. Applying the said legal proposition to the facts of the present case, wherein it is an admitted fact that the respondent / assessee furnished the audit report during the course of assessment relating to the assessment year 2009-10 and they very well complied with the requirement of Section 80IA(7) for claiming deduction under Section 80IA. Therefore, the CIT(A) allowed the claim of the respondent / assessee, which was also rightly affirmed by the ITAT and the same do not call for any interference at the hands of this Court.”

7. In view of the above judgment, we hold that the requirement of an audit report for the purpose of 80IA(7) is directory and not mandatory. Therefore, the right to file an audit report at the appellate stage is permissible, even if it was not filed before the Assessing Officer prior to the completion of the assessment. Hence, the second question of law is answered accordingly in favour of the assessee and against the Revenue.



8.

As a result, this Tax Case Appeal is partly allowed. No costs.

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(G.J.,J.) (S.S.A.,J.)

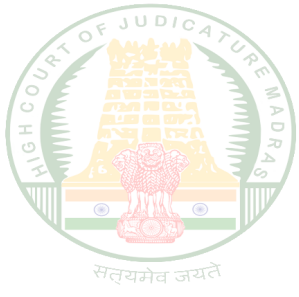
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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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and
SHAMIM AHMED J.

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