(2007) 06 MAD CK 0199

In the Madras High Court

Commissioner of Income Tax APPELLANT

Vs

Adyar Gate Hotel Ltd. RESPONDENT

Date of Decision : 21-06-2007

Acts Referred:

Citation : (2007) 06 MAD CK 0199

Hon'ble Judges : P.P.S. Janarthana Raja, J;P.D. Dinakaran, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

P.D. Dinakaran J.

1. The above tax case appeals are directed against the order of the Income Tax Appellate Tribunal in I.T.A. Nos. 1520 and1521/Mds/2002, dated 31-5-2006, for the assessment years 1996-97 and1997-98, respectively, raising the following substantial question of law.

Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the order u/s 154 was wrong as the issue was a debatable one, when the issue has been clearly settled by orders of the High Court and Supreme Court ?

2. The brief facts that led to the filing of the above appeals are as under.

3. The assessee is engaged in the business of running hotels. For the assessment years 1996-97 and 1997-98, the assessee filed the returns claiming relief u/s 80HHD of the Act and the same was allowed by the assessing officer. Finding that the deduction u/s 80HHD was computed including the interest earned on short-term deposits, the assessing officer passed an order of rectification that the interest received is taxable under the head "Income from other sources". Hence, the assessee filed appeals before the Commissioner (Appeals). The Commissioner (Appeals) dismissed the appeals on the ground that the assessing officer had rightly rectified the assessment. On further appeals preferred by the

assessee before the Income Tax Appellate Tribunal, the Tribunal, holding that the assessing officer has exceeded in his jurisdiction while acting u/s 154 of the Act, as the issue was a debatable one, allowed the appeals. Hence, the present appeals.

4. In The Commissioner of Income Tax Vs. Sharp Industries, , where the claim of the assessee therein with regard to deduction under Sections 80HHC and 80-1 of the Act was disallowed u/s 154 of the Act, this Court has held that the claim of the assessee could not be disallowed in a proceeding u/s 154 of the Act, especially when the interest income was included in the profit of the business.

5. Applying the ratio laid down in the decision cited supra, we do not find any substantial question of law arises for our consideration. Accordingly, these appeals are dismissed. Consequently, M.P. No. 1 of 2007 is also dismissed.