(2007) 06 MAD CK 0143

In the Madras High Court

Case No : T.C. (A) No''s. 787 to 789 of 2007

Commissioner of Income Tax — APPELLANT

Vs

India Nippon Electricals Ltd. — RESPONDENT

Date of Decision : 21-06-2007

Acts Referred:
Income Tax Act, 1961 — Section 154, 80HH, 80HHC, 80I

Citation : (2008) 302 ITR 49

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

Bench : Division Bench

Advocate : J. Narayanasamy, for the Appellant;

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—The above tax case appeals are directed against the order of the Income Tax Appellate Tribunal in I.T.A. Nos. 2307 to 2309/97 dated August 25, 2004, for the assessment years 1991-92 to 1993-94 respectively, raising the following substantial questions of law.

(a) Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the issue of, whether interest received from deposit made with company/bank, and interest from the Income Tax Department are derived from the industrial undertaking, is debatable issue and the same cannot be decided vide rectification proceedings u/s 154?

(b) Whether, on the facts and circumstances of the case, the Tribunal was right in not following the decision of the Supreme Court in the case of Pandian Chemicals Ltd. Vs. Commissioner of Income Tax, the interest from deposits while computing the deduction u/s 80HH?

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

2. The assessee filed its return for the assessment years 1991-92 to 1993-94 claiming deduction of interest on deposits in the computation of benefit under

Sections 80HH and 80-I of the Act and the same was allowed by the Assessing Officer. However, the Assessing Officer withdrew the deduction vide rectification proceedings u/s 154 of the Act. Hence, the assessee filed appeals before the Commissioner of Income Tax (Appeals). The Commissioner (Appeals) upheld the order of the Assessing Officer with a direction to include the interest amounting to Rs. 3.30 lakhs in the profits of the undertaking. On further appeals preferred by the assessee before the Income Tax Appellate Tribunal, the Tribunal, holding that the order of the Assessing Officer cannot be rectified, as the issue was a debatable one, allowed the appeals. Hence, the present appeals.

3. 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-I 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.

4. 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. Nos. 1 of 2007 is also dismissed.

