(2001) 10 MAD CK 0102

In the Madras High Court

Case No : Tax Case No. 829 of 1995 and Reference No. 383 of 1995

Commissioner of Income Tax — APPELLANT

Vs

Rathore Bros. — RESPONDENT

Date of Decision : 31-10-2001

Acts Referred:

Income Tax Act, 1961 — Section 80HHC

Citation : (2002) 125 TAXMAN 1033

Hon'ble Judges : R. Jayasimha Babu, J;A.K. Rajan, J

Bench : Division Bench

Advocate : Chitra Venkataraman, for the Appellant; V.S. Jayakumar, for the Respondent

Judgement

R. Jayasimha Babu, J.—The question that is referred in this case is, whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that clause (b) of sub-section (3) of section 80HHC of the income tax Act, 1961 (''the Act'') cannot be invoked in this case and the assessee is entitled to relief u/s 80HHC in respect of the entire export net profits? The Tribunal has held, and rightly, that the assessee had maintained separate accounts and that its trading receipts and profit and loss accounts had also been maintained separately for expect sales and domestic sales and, therefore, there was no warrant for disallowing any portion of the export earning pro rata by invoking sub-section (3)(b) of section 80HHC.

2. The Tribunal was right in so allowing the deduction in its entirety. The purpose of sub-section (3)(b) of section 80HHC is to disallow a part only when the entire deduction claimed cannot be regarded as being relatable to exports. Here, there was sufficient material to show that the income claimed was entirely due to export and was supported by all the necessary documents which were not disputed. We, therefore, answer the question referred to us in favour of the assessee and against the revenue.