(2004) 07 MAD CK 0114

In the Madras High Court

Case No : Tax Case (Appeal) No. 203 of 2003

Commissioner of Income Tax — APPELLANT

Vs

S.S.C. Shoes Ltd. — RESPONDENT

Date of Decision : 19-07-2004

Acts Referred:
Income Tax Act, 1961 — Section 80HHC, 80HHC(3)

Citation : (2005) 197 CTR 487 : (2005) 275 ITR 46

Hon'ble Judges : P.D. Dinakaran, J;N. Kannadasan, J

Bench : Division Bench

Advocate : J. Naresh Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—Heard. The appeal is preferred against the order of the Income Tax Appellate Tribunal, Madras Bench "C", dated April 10, 2001 in I. T. A. No. 1489 of 1993. The following substantial question of law was raised for consideration :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the interest on deposit with the S. B. I. should be treated as income derived from an industrial undertaking for the purpose of relief u/s 80HHC ?"

2. In brief, the assessee-company has claimed Rs. 44,09,187 as deduction u/s 80HHC of the Income Tax Act, 1961, which includes interest on deposits of Rs. 2,19,088 received from the State Bank of India, for the assessment year 1990-91. The Assessing Officer disallowed the deduction.

3. The assessee filed an appeal before the Commissioner of Income Tax (Appeals), wherein the Commissioner, by an order dated February 19, 1993, allowed the appeal and directed the Assessing Officer to recompute the deduction u/s 80HHC of the Income Tax Act, taking into account the sum of Rs. 2,19,000 being interest received and held to be business income. Aggrieved by

the same, the Department filed a further appeal before the Income Tax Appellate Tribunal which was dismissed. Hence, the present appeal by the appellant/ Revenue.

4. The substantial question of law raised in this appeal as to whether the Tribunal was right in holding that the interest on deposit with the S.B.I. should be treated as income derived from an industrial undertaking for the purpose of relief u/s 80HHC of the Income Tax Act is answered against the Revenue in a decision reported in Commissioner of Income Tax Vs. N.S.C. Shoes, , wherein this court held as follows (page 751) :

"The interest received on deposits cannot be regarded as income derived from the industrial undertaking but as it is derived from the deposits made by the assessee with the bank. The direct and proximate link is with the deposit in the bank and not with the industrial undertaking.

In so far as Section 80HHC is concerned, it stands on a different footing as Sub-section (3) of Section 80HHC, as it stood during the relevant assessment year, equated the profits derived from the export of goods with the profits of the business as computed under the head ''Profits and gains of business or profession''. As in this case, the interest which the assessee derived from the bank deposits had been included in the computation and had been assessed under the head ''Profits and gains of business or profession'', this amount will have to be regarded as having been derived from the export effected by the assessee."

5. Applying the said ratio, the substantial question of law raised is answered against the appellant/Revenue and accordingly the appeal stands dismissed.

