(2011) 07 MAD CK 0294

In the Madras High Court

Case No : Tax Case (Appeal) No. 222 of 2005

The Commissioner of Income — APPELLANT

Vs

Lucas TVS Limited — RESPONDENT

Date of Decision : 13-07-2011

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

Citation : (2011) 07 MAD CK 0294

Hon'ble Judges : M. Jaichandren, J;Chitra Venkataramanand, J

Bench : Division Bench

Advocate : Arun Kurein Joseph, for Pushya Sitaraman, for the Appellant; R. Vijayaraghavan, for Subbaraya Aiyar, for the Respondent

Judgement

Chitra Venkataraman, J.—Following are the substantial question of law raised by the Revenue in respect of the assessment year 1995-1996:

Whether on the facts and in the circumstances of the case the Income -Tax Appellate Tribunal was right in law in holding that, Excise Duty of Rs. 66,26,80,433/-, Sales-tax condition of Rs. 15,73,09,197/-and Scrap sales of Rs. 6,33,44,336/-are not to be included in the turnover for the purpose of computation of deduction u/s 80HHC of the Income Tax Act, 1961, is valid?

2. Heard the learned Counsel appearing for the Revenue and the learned Counsel appearing for the Assessee.

3. It is stated by the learned Counsel for the Assessee that in respect of the very same Assessee, this Court considered the said issue in the decision reported in Commissioner of Income Tax v. Lucas Tvs Ltd. 2009 (308) ITR 377 (Mad), holding that in the absence of actual details regarding the sources of scrap sold during the assessment year, the matter had to be remitted back for the purpose of working out the relief u/s 80HHC of the Income Tax Act, 1961.

4. Following the said decision, the present appeal relating to the assessment year 1995-1996, also stands remanded to the Assessing Officer for fresh consideration

of the issue. The Tax Case Appeal is disposed of. No. costs.