(2006) 01 MAD CK 0166

In the Madras High Court

Case No : T.C. (Appeal) No. 1505 of 2005

The Commissioner of Income Tax APPELLANT

Vs

Sharp Industries RESPONDENT

Date of Decision : 19-01-2006

Acts Referred:
Income Tax Act, 1961 — Section 154, 260A, 80HHC, 80I

Citation : (2006) 282 ITR 336

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

Bench : Division Bench

Advocate : N. Murali Kumaran, for the Appellant;

Final Decision : Dismissed

Judgement

P.P.S. Janarthana Raja, J.—The present appeal is filed u/s 260-A of the Income Tax Act, 1961 by the Revenue, against the Order of the Income Tax Appellate Tribunal, Madras, "D" Bench dated 30.06.2005 in I.T.A. No. 530/Mds/2 002, for the assessment year 1993-94, raising the following substantial question of law. "Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee is entitled to deduction in respect of interest income u/s 80HHC and 80I of the Income Tax Act?"

2. The assessment year is 1993-94. The assessee firm is a manufacturer and seller of HP Monoblock pumps. Their claim with regard to deduction u/s 80HHC and 80I of the Income Tax Act was disallowed u/s 154 of the Act. Aggrieved by the said order, the assessee filed an appeal before the Commissioner of Income Tax (Appeal), who allowed the appeal. The Appellate Tribunal dismissed the appeal filed by the Revenue on the ground that the issue for consideration is outside the purview of Section 154 of the Act and therefore, the claim cannot be disallowed in a proceeding u/s 154 of the Act. Aggrieved by the same, the Revenue has preferred this appeal.

3. It is fairly submitted by the learned counsel for the Revenue that the issue

raised in the question is covered against the Revenue by the decision of this Court in Commissioner of Income Tax Vs. N.S.C. Shoes, , wherein it is held that the interest income is also eligible for deduction provided it is included in the computation of profit and gains of the business.

4. Applying the ratio laid down by this Court in the decision cited supra, we hold that the Tribunal was right in holding that the claim of the assessee could not be disallowed in a proceeding u/s 154, especially when the interest income was included in the profit of the business.

Hence there is no error in the order of the Tribunal and no substantial question of law arises for consideration for this Court. Hence the appeal is dismissed. No costs.

