

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'D' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं  
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.733/Mds/2014

निर्धारण वर्ष / Assessment Year : 1999-2000

The Deputy Commissioner of  
Income Tax,  
Company Circle VI(2),  
Chennai - 600 034.

v. M/s Shasun Pharmaceuticals Ltd.,  
(formerly M/s Shasun Chemicals &  
Drugs Ltd.),  
No.28, Sardar Patel Road, Guindy,  
Chennai - 600 032.

(अपीलार्थी/Appellant)

PAN : AAACS 5031 L

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Smt. E. Sulochana, JCIT

प्रत्यर्थी की ओर से/Respondent by : Sh. A.S. Sriraman, Advocate

सुनवाई की तारीख/Date of Hearing : 09.06.2016

घोषणा की तारीख/Date of Pronouncement : 24.08.2016

### **आदेश / O R D E R**

**PER N.R.S. GANESAN, JUDICIAL MEMBER:**

This appeal of the Revenue was disposed of by this Tribunal earlier by an order dated 06.08.2015. However, the assessee filed a Miscellaneous Petition in M.P. No.209/Mds/2015 on the ground that the issue raised by the Revenue as ground No.3 was not disposed of.

2. Smt. E. Sulochana, the Ld. Departmental Representative, submitted that ground No.3 relates to computation of deduction under Section 80HHC of the Income-tax Act, 1961 (in short "the Act") after reducing the foreign exchange gain of ₹89,46,150/-. Accordingly, the appeal was reopened and posted for hearing. The appeal was heard only for the purpose of adjudicating the ground raised by the Revenue with regard to foreign exchange gain for the purpose of computing deduction under Section 80HHC of the Act.

3. The Ld. Departmental Representative, submitted that the Assessing Officer reduced the foreign exchange gain of ₹89,46,150/- while computing deduction under Section 80HHC of the Act. According to the Ld. D.R., in this case, the foreign exchange gain does not relate to export of goods. According to the Ld. D.R., for the purpose of deduction under Section 80HHC of the Act, only income derived from export of goods or merchandise has to be taken into consideration. The foreign exchange gain does not arise out of export of goods, therefore, according to the Ld. D.R., the same cannot be considered for the purpose of deduction under Section 80HHC of the Act.

4. On the contrary, Sh. A.S. Sriraman, the Ld. counsel for the assessee, submitted that the Assessing Officer disallowed the claim of the assessee only on the ground that foreign exchange gain was not derived from export of goods. According to the Ld. counsel, the assessee is engaged in the business of export activity. Therefore, foreign exchange fluctuation was directly related to the export of the assessee. The CIT(Appeals) by placing reliance on the judgement of Madras High Court in CIT v. Pentasoft Technology Ltd. [Tax Case (Appeal) No.599 of 2010 dated 13.07.2010], allowed the claim of the assessee. Since the CIT(Appeals) has followed the decision of the Madras High Court, according to the Ld. counsel, there cannot be any grievance for the Revenue.

5. We have considered the rival submissions on either side and perused the relevant material available on record. The only issue arises for consideration is whether foreign exchange fluctuation, which resulted in profit to the assessee, has to be reduced for the purpose of deduction under Section 80HHC of the Act or not? The foreign exchange fluctuation was due to export sales made by the assessee. The assessee earned more profit due to foreign exchange fluctuation. Therefore, this Tribunal is of the considered

opinion that the foreign exchange fluctuation was directly related to export sales made by the assessee. Hence, the same is eligible for deduction under Section 80HHC of the Act. Therefore, the CIT(Appeals) has rightly directed the Assessing Officer to compute deduction without reducing the foreign exchange gain from the export business. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

6. It is made clear that the order of this Tribunal dated 06.08.2015 in respect of other issues remain as such.

7. In the result, the ground raised by the Revenue is dismissed.

Order pronounced on 24<sup>th</sup> August, 2016 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 24<sup>th</sup> August, 2016.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- |   |                          |
|---|--------------------------|
| 1. अपीलार्थी/Appellant                      | 2. प्रत्यर्थी/Respondent |
| 3. आयकर आयुक्त (अपील)/CIT(A)-VI, Chennai-34 |                          |
| 4. आयकर आयुक्त/CIT-VI, Chennai-34           | 5. विभागीय प्रतिनिधि/DR  |
| 6. गार्ड फाईल/GF.                           |                          |