

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A. No. 486 of 2009

DATE OF DECISION: 25.8.2009

Commissioner of Income Tax-I, LudhianaAppellant

Versus

M/s Kings Exports, B-4, Friend Indl. Colony,Respondent
Sherpur, Opp. Aarti Steels, Ludhiana

**CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

Present:- Mr. Rajesh Sethi, Advocate
for the appellant.

ADARSH KUMAR GOEL, J. (Oral)

1. The revenue has preferred this appeal under Section 260A of the Income Tax Act, 1961 (for short, "the Act") against the order of Income Tax Appellate Tribunal, Chandigarh Bench (B), Chandigarh dated 29.1.2009 passed in ITA No. 980/Chandi/2008 for the assessment year 2005-06, proposing to raise following substantial question of law:-

"Whether on the facts and in law, the Hon'ble Income Tax Appellate Tribunal was justified in restricting the addition of Rs.8,37,978/- instead of Rs.29,25,622/- made by the Assessing Officer in view of the provisions of Section 14A of the Income Tax Act, 1961 by disallowing the deduction claimed on account of 'Bad Debts' written off u/s 36(1)(vii) of the I.T.Act, 1961 as these 'Bad Debts' written off included incomes not received, which

were declared on accrual basis in Asstt. Years 2000-01, 2002-03 and 2003-04 and deduction u/s 80HHC was claimed on the same by the assessee in the respective years?

2. The assessee is engaged in manufacturing and export of engineering goods. The Assessing Officer disallowed claim for bad debts under Section 36(1)(vii) on the ground that the assessee had claimed deductions under Section 80HHC and in such a situation claim for bad debts will be hit by Section 14A of the Act. The CIT(A) partly upheld the claim of the assessee with the following observations:-

“Coming to the application of provisions of Section 14A of the Act, though the A.O. is of the view that the provision of this section is applicable in the facts and circumstances of the appellant's case, I do not agree with him. First of all, this amount cannot be said to be expenditure incurred for earning some income which do not form part of total income of the appellant. Such incomes are generally incomes enumerated in section 10 of the Act. Clearly, the income earned by the appellant from the export sales could not be said to be income which do not form part of the total income. Even otherwise, as rightly pointed out by the Id. Counsel in the written submissions above, entire income from export sales was not exempt and further the bad debts cannot be said to be an expenditure incurred by an assessee for earning some income. Anyhow, this amount being not relatable to any income which does not form part of the total income for the appellant for the respective assessment years, no part of the same could be

disallowed under the provisions of section 14A of the Act. Therefore, the disallowance made by the AO even on the basis of this alternative argument cannot be sustained.”

3. The Tribunal affirmed the above view.
4. We have heard learned counsel for the revenue.
5. On perusal of Section 80HHC and Section 14A, it is clear that expenditure incurred from export income cannot be held to be for earning income which does not form part of total income, which concept is dealt with under Section 10 of the Act. Section 80HHC deals with deduction of the element of profit from export from taxable income.
6. In these circumstances, no substantial question of law arises.
7. The appeal is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

August 25, 2009
pooja

(DAYA CHAUDHARY)
JUDGE

Note:-Whether this case is to be referred to the ReporterYes/No