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% 03.11.2009

Present: Mr. Sanjeev Sabharwal for the appellant.
Mr. Rajat Navet for the respondent.

+ ITA No. 225/2007

This appeal was admitted on the following questions of law :-

"1. Whether the Income Tax Appellate Tribunal was correct in law in treating the amount of Rs.53,32,448/- being the interest income received by the Assessee from fixed deposits with Banks and Companies as income from export business, thereby treating it as eligible for deduction under Section 80-HHC of the Income Tax Act, 1961?

2. Whether the Income Tax Appellate Tribunal was correct in law in treating bank charges amounting to Rs.79,274/- received by the Assessee as part of export turn over and as such eligible for deduction under Section 80-HHC of the Income Tax Act, 1961?

Learned counsel for the assessee could not dispute that the first question is covered by the judgment of this Court in *Commissioner of Income Tax v. Shri Ram Honda Power Equip. etc. etc.*, (2007) 289 ITR 475 (Delhi). This question of law, therefore, is decided in the negative, i.e. in favour of the Revenue and against the assessee.

Insofar as the second question of law is concerned, learned counsel for both the parties concede that it is wrongly framed. In fact, the assessee had paid bank charges of Rs.79,274/-. The Assessing Officer had deducted these bank charges while calculating the export turnover. The



ITAT, however, held that payment of bank charges cannot be export turnover and export turnover cannot be reduced by this amount. Therefore, the question would be as to whether the ITAT was correct in holding that the bank charges amounting to Rs.79,274/- cannot be reduced from the export turnover.

We are of the opinion that when the aforesaid bank charges were paid by the assessee, they formed part of the expenditure and the export turnover cannot be reduced thereby. The ITAT was, thus, right in holding so. This question is, therefore, decided in favour of the assessee and against the Revenue.

As a consequence, the appeal is partly allowed in the aforesaid terms.

A.K. SIKRI, J.

SIDDHARTH MRIDUL, J.

November 03, 2009

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