

**(2011) 07 MAD CK 0297**

**Madras High Court**

**Case No:** Tax Case (Appeal) No. 1082 of 2004

Commissioner of Income Tax-I

APPELLANT

Vs

Premier Polytronics Ltd.

RESPONDENT

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**Date of Decision:** July 12, 2011

**Hon'ble Judges:** M. jaichandren, J; Chitra venkataraman, J

**Bench:** Division Bench

**Advocate:** K. Suresh Kumar and J. Naresh Kumar, for the Appellant; R. Venkatanarayanan Advocate, for the Respondent

**Final Decision:** Allowed

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### **Judgement**

Chitra Venkataraman, J.

Following are the substantial questions of law raised by the Assessee in respect of the assessment year 1994-1995:

1. Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in holding that the sales tax and excise duty have to be excluded from the total turnover while working out the deduction u/s 80HHC in relation to export profits?
2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that deduction u/s 80HHC has to be worked out without deducting carried forward loss from earlier years against the profits of the current year disregarding the provisions of Section 80AB and 80B(5)?
2. Both the parties agree that the issues are covered by the decision of the Apex Court. As far as the first issue is concerned, it is answered in favour of the Assessee in view of the decision reported in [Commissioner of Income Tax, Coimbatore Vs. Lakshmi Machine Works](#), The second issue is answered against the Assessee, in view of the decision reported in Aswini Gold Storage Pvt. Ltd. v. Commissioner of Income Tax 2007 (290) ITR 183 (Mad.).

3. Thus, while answering the first issue in favour of the Assessee, the second issue stands answered against the Assessee. The Tax Case Appeal is partly allowed. No costs.