THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

I.T.T.A. No. 95 of 2001

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

This appeal by the Revenue under Section 260A of the Income Tax Act, 1961, was admitted for consideration of the following substantial questions of law.

> **"1) Whether on the facts and in the circumstances of the case, the Appellate tribunal is right in holding that the assessee is entitled to claim depreciation @ 100% on the centering material individual usage of which is very very remote?**
>
> **2) Whether on the facts and in the circumstances of the case, the order of the ITAT suffers from perversity by reason of there being no material placed before the Appellate Tribunal to hold that each of the shuttering plate was used independently and individually by the assessee on the basis of functional test?"**

2. We are now informed by Sri J.V. Prasad, learned Standing Counsel for Revenue, and Sri Gunaranjan, learned counsel for the respondent, that the issue stands settled by the majority decision of a Full Bench of this Court in Commissioner of Income Tax v. S. Vijaya Kumar[1]. As per the majority view, 100% depreciation would not be available on centering and shuttering equipment. In effect, the allowance towards depreciation at 33 1/3% by the Assessing Officer was therefore upheld.

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[1] (2015) 376 ITR 226 (T-Commerce & A.P) (F.B.)

3. In that view of the matter, the questions of law raised in this appeal stands answered.

4. Accordingly, the appeal is allowed. Pending miscellaneous petitions shall stand closed. No order as to costs.

SANJAY KUMAR, J

GUDISEVA SHYAM PRASAD, J

08th June, 2017

KSM

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