IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

T.C.A.No.471 of 2017

The Commissioner of Income Tax,
Chennai. .. Appellant

Versus

M/s.Sundaram Fasteners Ltd.,
98-A, 7th Floor,
Dr.RAdhakrishnan Salai,
Mylapore, Chennai-600004. .. Respondent

Appeal filed under Section 260 (A) of the the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal “D” Bench, Chennai, dated 04.03.2016 in I.T.A.Nos.688/Mds/2015 against the Assessment order passed by the Deputy Commissioner of Income Tax Corporate Circle 6(2), Chennai 34, dated 30.01.2015 in PAN AAACS8779D for the Assessment Year 2010-11, directions dated 27.11.2014 by the Income Tax Officer(Hqrs) International taxation, Chennai and Secretary to the Dispute Resolvation Panel, Chennai dated 27.11.2014 in F.No.DRP/CHE/24/2014-15 for the Assessment Year 2010-11.

For Appellant :Mr.J.Narayanaswamy

For Respondent :Mr.Subbaraya Aiyar

JUDGMENT

(Judgment of the court was made by MOHAMMED SHAFFIQ, J.)

The short question that arises for consideration is whether the assessee is entitled for 50% of additional depreciation in the assessment year, subsequent to the assessment year of acquisition and installation of plant and machinery.

2. The above question is no longer res integra and stands resolved by this Court on more than one occasion, wherein the argument of the Revenue has been negatived and it was held that it is permissible for the assessee to claim balance depreciation in the assessment year which follows the assessment year in which the machinery was acquired and installed albeit, for less than 180 days. In this regard it may be relevant to refer to the following portion of judgment of this Court in T.C.A.Nos. 551 of 2013 dated 14.03.2017 and 157 of 2017 dated 06.03.2017 which reads as under:

> " T.C.A.No.551 of 2013
>
> 9. The last submission that Mr.Ravi advanced was in fact, predicted on the reasoning given by the Assessing Officer, which, according to us, is misconceived, as the manner of calculation of depreciation, cannot, to our minds, impede the claim of the Assessee for balance additional Depreciation, in the year following the previous year, in which, the said asset is installed and put to use.
>
> 10. Therefore, for the aforesaid reasons, we find no merit in the submissions advanced by the Revenue.
>
> T.C.A.No.157 of 2017:
>
> 11.4. We are, clearly, of the view that the Memorandum, which is sought to be relied upon by the Revenue, only clarifies as to how the unamended provision had to be read all along.
>
> 11.5. In any event, insofar as the Court is concerned, it has to go by the plain language of the unamended provision, and then, come to a conclusion in the matter. As alluded to above, our view, is that, upon a plain reading of the unamended provision, it could not be said that the Assessee could not claim balance depreciation in the A.Y., which follows the A.Y., in which, the machinery had been bought and used, albeit, for less than 180 days. "

3. Accordingly, the questions of law stand answered against the Revenue and this Tax Case Appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

psa

To:

1. The Income Tax Appellate Tribunal “D” Bench,
   Chennai.

2. The Deputy Commissioner of Income Tax,
   Corporte Circle 6(2),
   Chennai-34.

3. The Income Tax Officer,
   (Hqrs),
   International Taxation,
   Chennai & Secretary to the
   Dispute Resolvation Panel,
   Chennai.

Copy To

The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.Subbaraya Aiyar, Advocate SR.No.38053

TCA No.471 of 2017

EV(CO)
GMY(15/07/2022)