IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

TCA No.148 of 2012

Tamil Nadu Cements Corporation Ltd.,
LLA Building,
735, Anna Salai,
Chennai-600 002

Appellant

Vs

The Income Tax Officer (OSD),
Company Circle III(1),
Chennai-600 034.

Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "C" Bench, Chennai, dated 30.03.2012 in ITA No.1544/Mds/2007.

For Appellant: Mr.I.Dinesh
for M/s.Sriniranjani Srinivasan

For Respondent: Mr.J.Narayanaswamy
Sr. Standing Counsel

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

This appeal impugns the order dated 30.03.2012 passed by the Income Tax Appellate Tribunal (ITAT) and, by the order dated 04.06.2012, the following substantial questions of law were framed:

> *"1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in confirming that the Commissioner of Income Tax has the requisite jurisdiction under Section 263 of the Income Tax Act to pass the impugned order dated 30.3.2007?*
>
> *2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in not considering that the order under Section 263 dated 30.3.2007 is barred by limitation, in so far as it proposes to revise the business loss, unabsorbed depreciation and investment allowance in respect of assessment year 1985-86 onwards?*
>
> *3. Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal is right in law in holding that the priority followed by the appellant in terms of the claim of business loss, unabsorbed depreciation and investment allowance is not correct?"*

2. Having considered the impugned order, we are in agreement with the ITAT that the Commissioner of Income Tax (CIT) has correctly exercised jurisdiction under Section 263 of the Income Tax Act, 1961 (Act). Moreover, the CIT, vide a order dated 30.03.2007, only directed the Assessing Officer to recompute the income of the relevant assessment year after determining the correct amount of brought forward loss, unabsorbed depreciation and investment allowance in accordance with law.

3. Therefore, there is no merit in this appeal. Moreover, we are informed by counsel for appellant that the Assessing Officer has already complied with the direction given by the CIT and the order passed by the Assessing Officer has been challenged right up to the ITAT. Counsel submitted that even the ITAT has confirmed the order passed by the Assessing Officer and appellant has not challenged that order. Therefore, appellant having already accepted the position, question of entertaining the appeal does not arise.

4. Appeal is dismissed. There shall be no order as to costs.

(K.R.SHRIRAM, CJ.) (SUNDER MOHAN, J.)
24.06.2025

Index : Yes/No
Neutral Citation : Yes/No
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To:

1. The Assistant Registrar
   Income Tax Appellate Tribunal
   "C" Bench, Chennai.

2. The Commissioner of Income Tax Chennai-I
   Chennai-600 034.

3. The Joint Commissioner of Income Tax,
   Special Range-II, Chennai-600 034.

4. The Income Tax Officer (OSD),
   Company Circle III(1),
   Chennai-600 034.

THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN,J.

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