IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2026

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THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Tax Case (Appeal) No.468 of 2012

M/s Rajeswari Infrastructure Ltd.,
(Formerly known as M/s Rajeswari Foundations Ltd.,)
B-3, C Block, III Floor,
Parsn Paradise Apartments,
109, G.N.Chetty Road,
Chennai 600 017.
PAN:AAACR1628N ..Appellant/Respondent

/versus/

The Deputy Commissioner of Income Tax,
Company Circle-V(3),
Chennai. ..Respondent/Appellant

Tax Case Appeal has been filed under Section 260A of Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, Chennai in ITA No.444/Mds/2011 dated 16.03.2012.

For Appellant :No appearance

For Respondent :Mrs.V.Pushpa, SSC

JUDGMENT

(The Judgment of the Court was delivered by Dr.G.Jayachandran,J.)

There is no representation on behalf of the appellant, despite notice having been sent to the Resolution Professional, who is now representing the Appellant. For the Assessment Years 2006-2007 and 2007-2008, the returns filed by the appellant under Section 143(2) of the Income Tax Act, 1961, were scrutinised and certain disallowances were made in respect of terminal depreciation claimed under Section 32(1)(iii) of the Income Tax Act, 1961.

2. Being aggrieved, the assessee preferred an appeal before the CIT(A) and the same was partly allowed. Being aggrieved, the Revenue has preferred appeal before the Tribunal. Considering the grounds of appeal, the Tribunal allowed the appeal in favour of the Revenue observing as below:-

> "5.We have considered the written submissions filed by the assessee, as also the submissions made by the Ld. DR. Perusal of the provisions of Section 32(1) shows that the words used therein are "used for the purpose of the business of profession". Admittedly, the assessee was in the business of

offset printing and typesetting. In 2003, the assessee admittedly had converted this land and factory building into stock in trade. The Minute of the assessee company did the conversion of the land and factory building into stock in trade, the business assets of the assessee no more survived as the business asset eligible for depreciation. Once this happens, the business of the assessee would be deemed to have been discontinued. Once the business of the assessee is discontinued and the said assets are no more used for the purpose of business or profession, the provision of Section 32(1) are no more available to the assessee. Terminal depreciation is provided u/s 32(1)(iii) of the Act. For claiming depreciation u/s 32(1)(iii), it must first comply with the provisions of Sec.32(1) of the Act that the asset is used for the purpose of business or profession. As the asset being the land and factory building, the assets were used in the business of offset printing and typesetting, which was discontinued business from 2003, the provisions of Sec.32(1) is no more available in regard to such business as the business itself does not exist. The business of real estate is a new line of business and the land and building is the stock in trade. Further perusal of the written submissions filed by the assessee clearly shows that the development cost was incurred for the land portion in which the factory building was constructed during 1995. This is a part of the cost of the land and building. It is also claimed in its balance sheet as the asset of the business of offset printing and typesetting, which has been discontinued. As the business in respect of which the said development cost has been incurred is discontinued, the same cannot be claimed as revenue expenditure in respect of another business being real estate business, just because the land has been converted into stock in trade for the present business. In the circumstances, we are of the view that the finding of the Ld. Commissioner of Income Tax (A) on these issues are liable to be reversed and we do so. In the circumstances, the order of the Commissioner of Income Tax (A) on the issues in the appeals stand reversed and that of the Assessing Officer restored. In the circumstances, the appeals of Revenue are allowed.

6.In the result, the appeals of the Revenue are allowed.

3. Challenging the order of the Tribunal, this appeal is filed. At the time of admission, the Following Substantial Questions of Law were framed for consideration:-

1.Whether the Appellate Tribunal is correct in law in sustaining the disallowance of the claim of terminal depreciation within the scope of Section 32(1)(iii) of the Act on the wrong understanding of the facts relating to the diversification/relocation of the business of the appellant as discontinuance of the original business?

2.Whether the Appellate Tribunal is correct in law in rejecting the claim of terminal depreciation within the scope of Section 32(1)(iii) of the Act inspite of the statutory position permitting such claim on the plain reading and literal interpretation?

3.Whether the Appellate Tribunal is correct in law in rejecting the claim of land development cost in the computation of taxable total income again on the ground of discontinuance/relocation of the original business even though there was diversification of business on the facts and in the circumstances of the case.

4. The Assessee was engaged in the business of offset printing and typesetting and had converted its land and building into stock-in-trade. Neither the business nor the assessee, survives and the facts themselves clearly establish that the assessee has gone into relocation and a Resolution Professional has been appointed. While so, for the

claim of the assessee seeking depreciation, the asset must be in use of the assessee for the purpose of profession; when the business itself is no more; the terminal depreciation claimed under Section 32(1)(iii) is impermissible. The Tribunal has rightly observed so and allowed the appeal partly in favour of the Revenue. We find no reason to interfere with the order of the Tribunal, which is self-explanatory and the Substantial Questions of Law are held in favour of the Revenue, since the assets of the business have been sold and the business has also been closed. Therefore, it cannot be construed diversification or re-location of the business. Hence, this Tax Case Appeal is dismissed. No order as to costs.

(Dr.G.JAYACHANDRAN,J.) **(SHAMIM AHMED,J.)**
01.04.2026

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Index:yes/no
Neutral citation:yes/no

<u>To</u>
The Deputy Commissioner of Income Tax,
Company Circle-V(3),
Chennai.

Dr.G. JAYACHANDRAN,J.
AND
SHAMIM AHMED,J.

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T.C.A.No.468 of 2012

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