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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2026

CORAM:

THE HONOURABLE DR. JUSTICE **G.JAYACHANDRAN**
and
THE HONOURABLE MR. JUSTICE **SHAMIM AHMED**

T.C.A.No.104 of 2015

M/s.Wheels India Limited
Padi, Chennai.

.. Appellant

Vs.

The Assistant Commissioner of Income Tax
(LTU Appeals),
Chennai 600 101.

.. Respondent

PRAYER: Tax Case (Appeal) is filed under Section 260A of the Income-Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, “D” Bench, Chennai dated 26.11.2013 in ITA No.2136/Mds/2010.

For Appellant : Mr.R.Venkatanarayanan for
M/s.Subbaraya Aiyar

For Respondent : M/s.V.Pushpa
Senior Standing Counsel for IT

JUDGMENT

[Order of the Court was made by Dr.G.JAYACHANDRAN., J.]

M/s.Wheels India Limited, the assessee is the appellant. The Tax Case



Appeal has been filed challenging the order passed by the Income Tax Appellate Tribunal in ITA No.2136/Mds/2010 for the assessment year 2007-08 under Section 143(3) of the Income Tax Act.

2. The short points involved in this appeal is whether the assessee is entitled to claim the balance 50% of the additional depreciation for new plant and machinery purchased on a particular assessment year for less than of 180 days. The assessee / appellant filed its return of income on 30.10.2007, declaring a total income of Rs.25,27,34,640/-. The return was processed under Section 143(1) of Income Tax Act. Subsequently, on scrutiny, it was found that the assessee has claimed additional depreciation of balance 50% to the ensuing assessment year and therefore, disallowed the excess claim of additional depreciation amounting to Rs.3,15,48,837/- in respect of plant and machinery installed in the preceding year and put to use less than 180 days.

3. The assessee, relying upon the proviso to Section 32(1)(ii) of the Income Tax Act, claimed entitlement of the additional depreciation of 50% in the following year. Since only 50% of additional depreciation was



availed in the current assessment year, the balance 50% is eligible to be claimed in the subsequent assessment year as per Section 32 (1) of the Income Tax Act.

4. The case of the assessee is that it cannot be deprived of the additional depreciation provided under the statute for the new plant and machinery purchased in the middle of the assessment year and put to use for less than 180 days. However, the Assessing Authority, Appellate Authority as well as the Tribunal consistently held against the assessee. Hence, the present appeal has been filed, framing the following substantial questions of law:

“1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee is not entitled for balance 50% of additional depreciation in the current assessment year in respect of assets acquired in previous year and put to use for less than 180 days?

2. Whether on the facts and in the circumstances of the case, the entitlement to additional depreciation under Section 32(iia) which is vested as incentive for investments in new plant and machinery can be divested by the second proviso to Section 32(1) which restricted it to 50 per cent?

3. Whether on the facts and in the circumstances of the



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case and in law the Tribunal ought to have appreciated that second proviso to Section 32(1) only restricts the quantum of depreciation allowable in the first year of use but in no way restricts or reduces the total amount of additional depreciation, allowable in respect of eligible plant and machinery?."

5. The learned counsel appearing for the appellant submitted that the substantial questions of law, namely, whether the assessee is entitled to the balance 50% of the additional depreciation in the current assessment year in respect of an asset acquired in the previous year and put to use for less than 180 days, is no more *res integra* in view of the categorical pronouncement of this Court in T.C.A.No.551 of 2013 vide order dated 14.03.2017. He also relied on the subsequent judgment of this Court rendered in ***Commissioner of Income Tax, Madurai Vs. M/s.Shri T.P.Textiles Private Limited***, which followed the judgment in ***Commissioner of Income Tax, Chennai Vs. Aztec Auto (P) Limited*** and few other judgments.

6. The learned Standing Counsel appearing for the Income Tax department submitted that against the decision of the Madras High Court Division Bench, the department has preferred an appeal before the Hon'ble

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Supreme Court. However, the Special Leave Petition (S.L.P.) filed by the Revenue department is pending consideration.

7. Section 32(1) reads as below:

Section 32(1) In respect of depreciation of _

(i) buildings, machinery, plant or furniture, being tangible assets;

(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998, owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed-

(i) in the case of assets of an undertaking engaged in generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed;

(ii) in the case of any block of assets, such percentage on the written down value thereof as may be prescribed:

Provided.....

*(a) & (b) ***

Provided further that where an asset referred to in clause (I) or clause (ii) or clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the



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purpose of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent of the amount calculated at the percentage prescribed for an asset under clause (I) or clause (ii) 1 or clause (iia), as the case may be:

*Provided also & Explanation 1 to Explanation 5***

(iia) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing or generation or generation and distribution of power, a further sum equal to twenty per cent of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii).

8. The proviso to this Section speaks about the purchase of any new plant and machinery and put to use for the purpose of business or profession for a period of less than 180 days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to 50% of the amount calculated in the percentage prescribed. Further, the proviso and Explanation makes clear that any plant and machinery is acquired and installed after the 31st day of March 2005, and the assessee has



engaged such plant and machinery for the purpose of business for less than 180 days in the particular assessment year, the assessee is entitled for the balance 50% of the subject depreciation in the subsequent assessment year.

9. The spirit of the provision has been considered by this Court in *Commissioner of Income Tax, Madurai Vs. M/s.Shri T.P.Textiles Private Limited*, Taking cue from the clarification issued by the department, which removed even in the iota of ambiguity in the interpretation of the provision, this Court held that the Memorandum explaining the provision in the Finance Act, 2015, and reasons for the amendment to Section 32, clearly indicate that the Legislature recognized the fact that the manner in which the provision was interpreted prior to the amendment would lead to discrimination in respect to plant and machinery used for less than 180 days and that used for 180 days or more. Thus, the Division Bench opined that in order to maintain parity among assesseees, they carry forward the benefit to the next assessment year for the balance 50% of the additional depreciation.

10. Since we are in full concurrence with the view expressed by the learned Division Bench, therefore, the questions of law as to whether the



assessee is entitled to the balance 50% of the additional depreciation in the current year, in respect of asset acquired in the previous year and put to use for less than 180 days, is answered affirmative. Since the additional depreciation is given to encourage purchase of new plant and machinery, as found in the Memorandum, the advantage of granting additional depreciation should be extended to all assessees without any discrimination, whether they used the machinery for less than 180 days or more than 180 days in a particular assessment year. If the assessee has used the machinery for less than 180 days in a particular year, the statute provides for 50% of the additional depreciation on that particular assessment year and the remaining 50% shall be allowed to the subsequent assessment year.

11. In order to avoid the disparity among the assessees, since the first substantial question of law has been answered in the affirmative in favour of the assessees, the other two substantial questions of law are also answered in the affirmative in favour of the assessee. If an assessee is entitled to additional depreciation, such benefit cannot be deprived partially on the sole ground that he has not put to use the plant and machinery for more than 180 days in a particular assessment year.



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12. In the result, this Tax Case Appeal stands allowed. No costs.

[Dr.G.J., J.] & [S.S.A., J.]

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To

The Assistant Commissioner of Income Tax
(LTU Appeals),
Chennai 600 101.



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SHAMIM AHMED., J.

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