



◦ **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 389/2003**

**COMMISSIONER OF INCOME TAX** .....Appellant  
Through Mr. R.C. Pandey with  
Mr. Ajay Jha, Adv.

versus

**M/S MACHINO PLASTICS P.LTD.** ..... Respondent  
Through Nemo

**CORAM:**

**HON'BLE MR. JUSTICE D.K. JAIN**

**HON'BLE MR. JUSTICE MADAN B. LOKUR**

**ORDER**

**11.11.2003**

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This appeal by the Revenue under Section 260A of the Income-tax Act, 1961 is directed against an order, dated 27 January 2003, passed by the Income-tax Appellate Tribunal Delhi Bench-D, New Delhi (for short the Tribunal) in ITA No.1151/Del/98 pertaining to the assessment year 1995-96.

Ⓐ According to the Revenue, the following substantial questions of law arise out of the impugned order:

"1. Whether the ITAT was correct in confirming the order of the CIT(A) and thereby holding that the depreciation of Rs.60,75,236/- is to be allowed to the assessee on the increased cost of machinery due to fluctuation in the ratio of exchange as on the last date of the accounting year ?

2. Whether the ITAT was correct in allowing the increased depreciation on the increased cost of plant and machinery when the increased liability to pay did not accrue during the relevant year ?



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3. Whether the ITAT was correct in allowing the depreciation of Rs.60,75,236/- computed on increased cost/WDV of plant and machinery on account of exchange rate fluctuation accounted for in the earlier years ?”

We find that while dismissing the Revenue's appeal on the issues raised, the Tribunal has merely relied on its earlier orders in the case of the assessee itself for the assessment years 1990-91 to 1992-93. Mr. R.C. Pandey, learned senior standing counsel for the Revenue, candidly admits that orders of the Tribunal pertaining to the said assessment years have attained finality, inasmuch as these have not been challenged by the Revenue.

In view of the statement of the learned counsel and having regard to the fact that in the impugned order there is no discussion by the Tribunal on the issue, we are of the view that the order of the Tribunal is incapable of being examined by this Court. In this factual scenario, the impugned order does not involve any substantial question of law. Accordingly, we decline to entertain the appeal. Dismissed.

  
D.K. JAIN, J

  
MADAN B. LOKUR, J

NOVEMBER 11, 2003

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