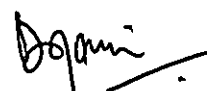





| Sr. No. | Date | Orders |
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| | | <p>* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ ITA 387/2003</p> <p>COMMISSIONER OF INCOME TAXAppellant Through Mr. R.C. Pandey with Mr. Ajay Jha, Adv.</p> <p>versus</p> <p>M/S MACHINO PLASTICS P.LTD. Respondent Through Nemo</p> <p>CORAM: HON'BLE MR. JUSTICE D.K. JAIN HON'BLE MR. JUSTICE MADAN B. LOKUR</p> <p style="text-align: center;"><u>ORDER</u> 11.11.2003</p> <p>%</p> <p>This appeal by the Revenue under Section 260A of the Income-tax Act, 1961 is directed against an order, dated 13 February 2003, passed by the Income-tax Appellate Tribunal Delhi Bench -E, New Delhi (for short the Tribunal) in ITA No.5328/Del/98 pertaining to the assessment year 1996-97.</p> <p>In the appeal, the Revenue has proposed the following questions, which, according to it, are substantial questions of law, arising out of the impugned order:</p> <ol style="list-style-type: none"> “1. Whether the ITAT was correct in confirming the order of the CIT(A) and thereby holding that the depreciation of Rs.46,17,727/- is to be allowed to the assessee on the increased cost of plant and machinery due to fluctuation in the rate of exchange on the last day 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 ? 3. Whether the ITAT was correct in allowing the depreciation of Rs.46,17,727/- computed on increased cost/WDV of plant and machinery on account of exchange |



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| | | <p>rate fluctuation accounted for in the earlier years ?</p> <p>4. Whether the ITAT was correct in law in holding that the instant case was covered in assessee's own case right from assessment years 1990-91 to 1992-93 and not deciding the issue on merits ?</p> <p>5. Whether the ITAT has correctly interpreted the judgment of the Apex Court in Arvind Mills Case (193 ITR 255) and of Padmajee Pulp & Paper Mills Vs. CIT decided by the Bombay High Court and reported in 210 ITR 97 ?</p> <p>6. Whether the Tribunal has correctly interpreted Section 43A of the Income-tax Act, 1961 in the instant case ?”</p> <p>From the impugned order we find that while dismissing the Revenue's appeal on the issue, 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 counsel for the Revenue, candidly admits that orders of the Tribunal pertaining to the said assessment years have not been challenged by the Revenue.</p> <p>In view of the statement of the learned counsel and keeping in view the fact that there is no discussion by the Tribunal on the issue in the impugned order, we are of the view that no question of law, much less a substantial question of law, arises from the impugned order. We accordingly decline the entertain the appeal.</p> <p>-Dismissed.</p> <p style="text-align: right;">  D.K. JAIN, J  MADAN B. LOKUR, J </p> <p>NOVEMBER 11, 2003</p> |