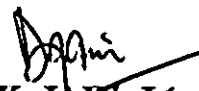





Sr. No.	Date	Orders
		<p>* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ ITA 150/2003</p> <p>COMMISSIONER OF INCOME TAX DEL Appellant Through: Mr. Sanjeev Khanna, Adv. with Mr. Subhash C. Sharma, Adv.</p> <p>versus</p> <p>SUIDU TRADE LINKS LTD. Respondent Through: Nemo</p> <p>CORAM: HON'BLE MR. JUSTICE D.K. JAIN HON'BLE MR. JUSTICE MADAN B. LOKUR</p> <p><u>ORDER</u> % 02.05.2003</p> <p>This appeal under Section 260A of the Income-tax Act, 1961 (for short "the Act") by the Revenue is directed against order dated 6 September 2002, passed by the Income Tax Appellate Tribunal (for short "the Tribunal") in ITA No.4893/Del/97, pertaining to the Assessment Year 1995-96.</p> <p>The short issue sought to be raised by the Revenue in this appeal, is as to whether an assessee, who has leased out the vehicles to a third party for running them on hire, is entitled to depreciation at a higher rate or not.</p> <p>A similar issue came up for consideration of this Court in <u>C.I.T. Vs. Bansal Credits Ltd. (2003) 259 I.T.R. 69</u>, and it was held that where the vehicles have been leased out by the assessee for running them on hire, he is entitled to a higher rate of depreciation. In view of the said decision, the issue raised by the Revenue in the appeal does not survive for our consideration.</p>



Sr. No.	Date	Orders
		<p style="text-align: right;">2</p> <p>However, relying on our observations in <u>Bansal Credit Ltd.</u> (Supra) to the effect that before granting depreciation at higher rate, it has to be examined whether the leased out vehicles are actually being used in the business of hire or not. Mr. Sanjeev Khanna, learned senior standing counsel for the Revenue, would submit that in the present case, without examining the said aspect, the Tribunal had directed grant of depreciation at a higher rate only on the ground that the vehicle had been leased out by the assessee.</p> <p>We do not with learned counsel for the Revenue for the simple reason that no such plea was sought to be raised on behalf of the Revenue before the Tribunal. As a matter of fact, it was not even Assessing Officer's case that the vehicles had not been used by the lessee on hire.</p> <p>In this view of the matter, we decline to entertain the appeal. Dismissed.</p> <p style="text-align: right;"> D.K. JAIN, J-</p> <p style="text-align: right;"> MADAN B. LOKUR, J</p> <p>MAY 02, 2003 aa</p>