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% 24.08.2011

Present: Mr N.P. Sahni, Sr. Standing Counsel for the appellant.
Mr. Monga, Advocate for the respondent/assessee.

+ITA 997/2011

The assessee had claimed depreciation on the investment made on Boiler in the assessment year 2002-03. However, the Assessing Officer restricted the depreciation to 50% on the ground that Boilers were used for less than 180 days in the said financial year. Though, the CIT (A) confirmed this finding of the Assessing Officer, the ITAT has returned the finding to the effect that the Boilers were put to use, after its erection for more than 180 days in the assessment year in question and, therefore, the assessee was entitled to full depreciation in that year.

For coming this conclusion the ITAT has evaluated and analysed the evidence which was placed on record and has inter alia, found as under: -

(i) The conjoint reading of provisional order u/s 9 of the Indian Boilers Act as well as the regular certificate available at page No.1 and 2, do indicate that boiler was found to be in a working condition. It was tested with full capacity. The first certificate was issued in May, 2001. This certificate has been referred in the second one which is a regular certificate.

(ii) The assessee has shown production of both the chemicals and it is not a small quantity rather it is a huge quantity. The details of production from May onward have been placed on record by the assessee at page 20. In August, 2001 the production of Sodium Hydro Sulphite was 415995



kg. In February, 2002 this production was 449559 kgs. Both these quantities are almost similar. It indicates that in August also a sufficient production was there. This production would further indicate that coal was not purchased for storing purpose rather for the usage. If the explanation of assessee is seen in the light of collective setting of all these factors then it would indicate that boiler was used for the complete year and assessee is entitled for depreciation for the whole year.

These are pure findings of facts given by the ITAT. We are not convinced with the arguments advanced by the learned counsel for the Revenue that findings are perverse.

No question of law arises in this appeal and the same is accordingly dismissed.


A.K. SIKRI, J.


M.L. MEHTA, J.

AUGUST 24, 2011

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