

(1998) 03 KL CK 0039

High Court Of Kerala

Case No: Income-tax Reference No. 85 of 1996

Commissioner of Income Tax

APPELLANT

Vs

Anand Theatres

RESPONDENT

Date of Decision: March 11, 1998

Acts Referred:

- Income Tax Act, 1961 - Section 32

Citation: (2000) 241 ITR 111

Hon'ble Judges: Om Prakash, C.J; S. Marimuthu, J; J.B. Koshy, J

Bench: Full Bench

Advocate: P.K.R. Menon and N.R.K. Nair, for the Appellant; Pathrose Mathai, for the Respondent

Judgement

Om Prakash, C.J.

At the instance of the Revenue, the Income Tax Appellate Tribunal (Cochin Bench) referred the following questions, relating to the assessment year 1986-87, u/s 256(1) of the Income Tax Act, 1961, for the opinion of this court :

"(1) Whether, on the facts and in the circumstances of the case, the theatre building can be considered as a plant ?

(2) Whether, on the facts and in the circumstances of the case, the assessee is entitled to higher rate of depreciation on the theatre ?"

2. Similar questions came up for our consideration in I. T. R. Nos. 44 of 1994, 54 and 55 of 1995 ([Commissioner of Income Tax Vs. Hotel Luciya](#)), by reference made by a Division Bench, in which, by a judgment dated March 11, 1998, we have answered the aforementioned questions in the affirmative. Following the said Full Bench decision, we answer both the abovementioned questions in the affirmative, that is, in favour of the assessee and against the Revenue.