

Commissioner of Income Tax Vs Thakurdas Choithram

Court: Madras High Court

Date of Decision: Aug. 13, 2002

Acts Referred: Income Tax Rules, 1962 " Rule 5
Income Tax Act, 1961 " Section 32

Citation: (2003) 259 ITR 340 : (2004) 135 TAXMAN 69

Hon'ble Judges: R. Jayasimha Babu, J; K.P. Sivasubramaniam, J

Bench: Division Bench

Advocate: T.C.A. Ramanujam, for the Appellant;

Judgement

R. Jayasimha Babu, J.

The question referred to us is,

Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the provisions of the amended Rule 5 which came

into force on April 1, 1983, would be applicable to the assessment year 1983-84 also and the assessee would be entitled to the enhanced

depreciation as provided in the said amended rules ?

2. The assessment year is 1983-84.

3. It is well settled now that the law to be applied for the purpose of assessment is the law in force as on the first day of the assessment year. An

amendment or modification subsequently made but which is not given retrospective effect will not affect the law to be applied and will not be

applicable for that year's assessment proceedings.

4. The depreciation on plant and machinery which was revised with effect from April 2, 1983, therefore, will not affect the applicability of the rates

which prevailed as on April 1, 1983, for the assessment year 1983-84. The amendment would be applicable only for the subsequent assessment

year.

5. The question referred to us is, therefore, answered in favour of the Revenue and against the assessee.