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(2001) 01 DEL CK 0136

Delhi High Court

Case No: Income Tax R. No. 262 of 1981

Commissioner of Income Tax	APPELLANT
Vs	
Harsha Tractor Ltd.	RESPONDENT

Date of Decision: Jan. 16, 2001

Acts Referred:

- Income Tax Act, 1961 - Section 256(1), 43(3)

Citation: (2001) 249 ITR 499 : (2001) 117 TAXMAN 201

Hon'ble Judges: Dr. Arijit Pasayat, C.J; D.K. Jain, J

Bench: Division Bench

Advocate: R.C. Pandey and Ajay Jha, for the Appellant; None, for the Respondent

Judgement

Arijit Pasayat, C.J.

At the instance of the Revenue, the following question has been referred for the opinion of this court u/s 256(1) of the Income Tax Act, 1961 (for short the "Act"), by the Income Tax Appellate Tribunal, Delhi Bench "E", New Delhi (for short the "Tribunal") :

"Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in upholding the decision of the Commissioner of Income Tax (Appeals) directing the Income Tax Officer to allow depreciation on Rs. 9,00,225 of project report ?"

2. The dispute relates to the assessment year 1975-76 for which the previous year ended on September 30, 1974. The assessed claimed depreciation on the value of the project report of Rs. 9,00,225. The Income Tax Officer disallowed the claim on the ground that the project report was only a preliminary report which could not be said to form any drawing or specification or manufacturing technique. It was further observed that expenditure in question had been shown in lump without any details and since the details were not there it would not be possible to hold that any asset

had come into existence. The matter was carried in appeal before the Commissioner of Income Tax (Appeals) (for short the "CIT (A)"). The said authority with reference to the agreement in question came to hold that the detailed project report was encompassed by the expression "plant" as defined in Section 43(3) of the Act. The matter was carried in further appeal before the Tribunal by the Revenue. The Tribunal upheld the views of the Commissioner of Income Tax (Appeals). On being moved for a reference, the question as set out above has been referred for the opinion of this court.

3. We have heard learned counsel for the Revenue. There is no appearance on behalf of the assessed in spite of notice. The meaning of the expression "plant" was examined by the apex court in various cases, in particular in Scientific Engineering House (P) Ltd. Vs. Commissioner of Income Tax, Andhra Pradesh, . It was held that "documentation service" comprised of drawings, designs, charts, plans, processing data and other literature, etc., and can be treated as "plant" and depreciation can be allowed thereon. That being the position, an obvious answer to the question is in the affirmative, in favor of the assessed and against the Revenue. The reference stands disposed of.