

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, CHENNAI

श्री बी.आर. बास्करन, लेखा सदस्य एवं श्री विकास अवस्थी, न्यायिक सदस्य केसमक्ष

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND  
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 1219/Mds/2014

निर्धारण वर्ष /Assessment Year : 2005-06

M/s Chennai Auto Agency Pvt. Ltd.,  
144, Anna Salai,  
Chennai - 600 002.

v. The Assistant Commissioner  
of Income Tax,  
Company Circle – I(3),  
Chennai - 600 034.

PAN : AAACC 4158 L  
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri R. Vijayaraghavan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri A.V. Sreekanth, JCIT

सुनवाई की तारीख/Date of Hearing : 04.02.2015

घोषणा की तारीख/Date of Pronouncement : 04.02.2015

### **आदेश / O R D E R**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 24.2.2014 passed by Ld CIT(Appeals)-1, Chennai and it relates to the assessment year 2005-06.

2. The Ld Counsel appearing for the assessee submitted that the assessee has carried out repair works in a leased premises and claimed the same as revenue expenditure. The Assessing Officer,

by placing reliance on Explanation – 1 to sec. 32 of the Income-tax Act, 1961 (in short 'the Act') and also on the decision of Hon'ble Supreme Court in the case of M/s Saravana Spinning Mills Private Limited (293 ITR 201)(SC) has taken the view that the said expenditure was capital in nature. Accordingly he disallowed the claim of the assessee. The Ld CIT(Appeals) also confirmed the disallowance so made by fully placing reliance on Explanation 1 to sec. 32 of the Act.

3. The Ld A.R further submitted that the Explanation 1 to sec. 32 shall apply only if the relevant expenditure is capital in nature. The Id A.R submitted that the assessee did not incur any capital expenditure, but the expenses incurred were purely revenue in nature, i.e., they have been incurred on repairs only. The Ld A.R, in this regard, has placed reliance on the decision of jurisdictional High Court in the case of CIT Vs. TVS Lean logistic (293 ITR 432) and Thiru Arooran Sugar Ltd (350 ITR 324). The Ld A.R further submitted that the assessee may be given one more opportunity to satisfy the assessing officer as to the nature of expenditure incurred and accordingly prayed that the matter may be set aside to the file of Assessing Officer.

4. We heard Ld D.R, who submitted that the nature of expenditure incurred was considered to be Capital in nature by Ld CIT(Appeals).

5. Having heard rival submissions, we are of the view that the assessee should be given one more opportunity to explain the nature of expenses, since the assessee claims that it has carried out only repair work and did not incur any capital expenditure. Accordingly, we set aside the order of Ld CIT(Appeals) on this issue and restore the matter to the file of the Assessing Officer for fresh examination of the same.

6. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court after conclusion of hearing on the 4<sup>th</sup> day of February, 2015 at Chennai.

Sd/-	sd/-
(विकास अवस्थी)	(बी.आर. बास्करन)
(Vikas Awasthy)	(B.R. Baskaran)
न्यायिक सदस्य/Judicial Member	लेखा सदस्य/Accountant Member

चेन्नई/Chennai,  
दिनांक/Dated, the 4<sup>th</sup> February, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-I, Chennai
4. आयकर आयुक्त/CIT, Chennai-I, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.