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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-10-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

TC(A).No.351 of 2015
CNR: {HCMA0105083820 15}

Case QR

The Commissioner of Income Tax,
Chennai.

..Appellant

Vs

M/s.TVS Motor Company Ltd.,
Jayalakshmi Estates,
29 (Old No.8) Haddows Road,
Chennai – 600 006.

..Respondent

PRAYER: Tax Case (Appeal) filed under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, Chennai dated 04.10.2012 passed in ITA.No.944/Mds/2011.

For Appellant: Dr.S.Sathiyanarayanan
Senior Standing Counsel

For Respondent: Mr.Vikram Vijayaraghavan
for Mr.Subbaraya Aiyar Padmanabhan

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JUDGMENT
(Delivered by Dr.Anita Sumanth, J.)

This is an appeal for assessment year (A.Y.) 2007-2008 filed by the Commissioner of Income Tax (CIT) challenging an order of the Tribunal dated 04.10.2012.

2. We have heard Dr.S.Sathiyanarayanan, learned Senior Standing Counsel for the appellant/Revenue and Mr.Vikram Vijayaraghavan, learned counsel for the respondent/assessee in detail and had perused the material papers and case laws cited.

3. We find that all the issues arising for our consideration are covered by earlier orders passed in the assessee's own case, and other decisions as well. The substantial questions, our discussion and the conclusion in respect of each questions of law are set out below in seriatim:

> **(i)** Whether on the facts and in the circumstances of the case, the Tribunal was right in holding the disallowance of expenditure on replacement of dies and moulds amounting to Rs.26,90,29,422/- is to be allowed?

4. Both learned counsel accede to the position that this issue, relating to disallowance of expenditure on replacement of dies and moulds is to be held in favour of the assessee vide decision in *Commissioner of Income-Tax vs. TVS*

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Motors Ltd.[1]. The operative portion is as follows:

> *"31. Applying the ratio of the decision cited above, when we look into the facts of the above cases, it is evident that with regard to the moulds and dies attached to the machinery like press designs specification, moulds and dies are not independent of the plant and machinery, but are parts of the machinery. Once the dies are worn out, the machines cannot turn out the product to the business specifications and this has to be obtained only on a replacement of the dies and moulds, a fact which is not refuted by the revenue. It is no doubt true that the assessee claimed depreciation on dies and moulds. Yet in the decision in the case of CIT vs. Mahalakshmi Textile Mills Ltd., reported in (1967) 66 ITR 710 (SC), the Apex Court pointed out that all questions whether of law or of fact, which relate to the assessment year of the assessee could be raised in any year under consideration before the Officer as well as before the Income Tax Appellate Tribunal too and if, for reasons recorded by the departmental authorities in rejecting a contention raised by the assessee, the grant of relief to an assessee is justified on another ground, the Revenue is bound to consider such claim of granting the relief. The Apex Court pointed out that the right of the assessee to the relief is not restricted to the plea raised by him. On the facts before us, when the dies and moulds were attached to the machine to manufacture the designed product, we have no hesitation to accept the plea of the assessee that the claim would fall for consideration only under Section 31 of the Act."*

This issue is answered in favour of the assessee.

[1]364 ITR 1

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(ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding the deduction u/s.35(1)(iv) of the Income Tax Act amounting to Rs.34,75,50,1060/- is to be allowed?

5. Both learned counsel agree that this issue relating to deduction under Section 35(1)(iv) of the Income Tax Act (in short 'Act') is also covered by the decision in *TVS Motors Ltd.*[2] where this Court, after analysing the relevant facts, had confirmed the findings of the Tribunal that is based on a decision of this Court in *Commissioner of Income Tax vs. Rane Break Linings Ltd.*[3]. This issue is also answered in favour of the assessee.

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that deduction u/s.35(2AB) of the I.T. Act amounting to Rs.55,77,43,863/- is to be allowed?

6. This issue relates to deduction under Section 35(2AB) of the Act and both learned counsel agree that the issue is covered by a decision of this Court in *Commissioner of Income-tax vs. TVS Motor Company Ltd.*[4], the relevant portion of which reads as follows:

> *"11. The third question of law, discussion and conclusion in regard thereto are as follows:-*
>
> *Whether on the facts and in the circumstances of the*

[2] Footnote Supra 1
[3] 255 ITR 395
[4] 488 ITR 577

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case, the Income Tax Appellate Tribunal was right in deleting the disallowance of weighted deduction under Section 35/35(2AB) in respect of work-in-progress?

12. The question relates to expenditure on research and development and on identical facts and legal position for the previous assessment year ie., AY 2003-04, the Tribunal had accepted the claim of the assessee. The conclusion was challenged by the Revenue and in TVS Motors Limited (supra), this Court has confirmed the order of the Tribunal finding that reliance on the decision reported in CIT v Rane Brake linings Ltd (supra) was correct.

13. We do not have the benefit of that decision of the Tribunal. However, since both parties would accede to the position that this issue is covered in favour of the assessee, this question of law is answered in favour of the assessee."

(iv) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding the deduction u/s.80 IA on notional profit derived from captive power generation at the assessee Mysore factory is to be allowed?"

7. Both learned counsel agree that this question is to be decided in favour of the assessee following the ratio in TC(A) Nos.68 to 70 of 2010. In this decision dated 07.06.2010, the Bench has analysed the provisions of Section 80IA, the judgment of the Supreme Court in *CIT vs. TANFAC Industries Ltd.*[5] and the Circular of the Central Board of Direct Taxes dated 03.10.2001 to come to the conclusion that the issue must be answered in favour of the assessee.

[5]319 ITR (Statutes) 8

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Hence, this question is also answered in favour of the assessee.

(v) Whether the Tribunal was right in holding that the disallowance of agency commissions paid amounting to Rs.17,74,00,154/- is to be allowed?

8. This issue relating to disallowance of agency commission is to be answered in favour of the assessee following the order in the assessee's case in *TVS Motor Company Ltd.*[6], wherein the discussion reads as follows:

> *"41. The seventh question of law, the discussion and conclusion in relation thereto, are set out below:-*
>
> *Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in deleting the disallowance of commission paid to foreign agents of Rs.9,53,00,671/- even though the foreign agents were rendering services of a technical or managerial nature in promoting the assessee's business abroad and when there was no difference between the definition given for "fees for technical services" under the DTAA and under Section 9(1)(vii) of the Income Tax Act?*
>
> *42. Both learned counsel would accede to the position that the issue relating to payment of commission to foreign agents arose in assessment years 1991-92, 1992-93 and 1994-95 and the Tribunal in ITA Nos. 388, 389 & 390 of 1998, on identical facts and position of law, had decided the matter in favour of the assessee. This order has attained finality and has not been challenged by the Department.*
>
> *43. A challenge on this ground however, appears to have been raised for AY 2002-03 in TCA No. 739 of 2009, that came to be dismissed on 11.07.2025 by the First Bench of*

[6]Footnote Supra 4

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this Court citing the aforesaid order of the Tribunal. Since no material is before us to show that there is a variation in facts and the legal position for the present assessment year, the ratio of the aforesaid orders would apply on all fours. This question of law also is answered in favour of the assessee."

Hence, this issue is also answered in favour of the assessee.

(vi) Whether the Tribunal was right in holding that depreciation on UPS and Voltage Stabilizer is to be allowed at 80% especially when the same is not integral part of the computer?

9. On the issue of whether the UPS and Voltage Stabilizer is entitled to depreciation at 80%, both learned counsel refer to the order of this Court in *The Commissioner of Income Tax. vs. Indian Overseas Bank*[7] dated 29.09.2026, whereby, relying on the decision of this Court in *Principal Commissioner of Income Tax-4 vs. Cholamandalam MS General Insurance Company Ltd.*[8] and the decision of Delhi High Court in *Principal Commissioner of Income Tax vs. Nestle India Ltd.*[9], the following conclusion has been arrived at:

"5. As far as the third issue is concerned, it is answered in favour of the assessee following the decision of this Court in Principal Commissioner of Income Tax-4 vs. Cholamandalam MS General Insurance Company Ltd. [(2025) 175 taxmann.com 452] and the decision of Delhi High Court in Principal Commissioner of Income Tax vs.

[7]TC(A) No.18 of 2014
[8](2025) 175 taxmann.com 452
[9](2023) 153 taxmann.com 201

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Nestle India Ltd. [(2023) 153 taxmann.com 201]. In Cholamandalam's case, the relevant paragraphs read thus:

"9. The substantial questions of law in regard to the issue of Depreciation on UPS are also answered in favour of the assessee in light of the decision of the Madras High Court in T.V.Sundaram Iyengar & Sons Ltd vs The Commissioner Of Income Tax [T.C.(A) No.684 of 2009, dated 30.11.2021]. The relevant paragraphs read thus:

4. As regards the third question of law, the learned counsel for the appellant fairly submitted that the same has already been considered and decided by this court by order dated 18.01.2019 in TCA No.23 of 2019, wherein, it was held that the assessee would be entitled to depreciation at 60% on UPS and Voltage Stabilizer, the relevant paragraphs of which are usefully reproduced below:

"4...with regard to the rate of depreciation that can be claimed for UPS and Routers, the Tribunal in the impugned order relied upon earlier decision of the Chennai Tribunal as well as the decision of the High Court of Delhi in the case of CIT vs. Oriental Ceramics and Industries Limited reported in (2013) 358 ITR 49 (Del.) and held that the assessee would be entitled to depreciation at 60%. Therefore, we are of the considered view that the finding rendered by the Tribunal is just and proper.

5. An UPS which is capable of giving uninterrupted power supply for a computer of a stipulated period has not been established to have an independent usage by placing any material. If the revenue disputes that the UPS can independently function, then the Assessing Officer should have material to the said effect. We are informed that the configuration of the power output for the UPS is designed to suit the equipment for which it shall supply uninterrupted

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power. Similarly, Routers also are to be considered as an integral part of computer.

6. This Court had an occasion to consider as to whether the printers are eligible for depreciation at 60%. In the case of CIT vs. Cactus Imaging India (P) Ltd., reported in [2018] 406 ITR 406 (Mad) and held that the assessee was entitled to depreciation at 60%. We find that there is no finding recorded by the Tribunal on the said head. Accordingly, Substantial Question of Law No.1 stands rejected. "

Therefore, the learned counsel agreed that the depreciation value of the UPS and stabilizer can be fixed at 60% instead of 100% as claimed by the assessee.

5. There is no serious objection on the side of the respondent/revenue on the above submissions made by the learned counsel for the petitioner.

6. In the light of the aforesaid decisions and taking note of the submissions made by the learned counsel appearing for both sides, we hold that the questions of law 1 and 2 are decided in favour of the assessee and against the revenue; and the third question of law is decided to the effect that the assessee is entitled to the depreciation at 60% as against 25% assessed by the respondent / revenue.""

Hence, this question is answered to the effect that the assessee is entitled to depreciation at 60% as against 15% granted by the Revenue.

(vii) Whether the Tribunal was right in holding that depreciation on temporary construction is to be allowed at 100% amounting to Rs.16,61,132/-?

10. The last question relates to depreciation on temporary construction. Though in assessment year 2003-2004, this Court, in the assessee's case,

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granted depreciation at 100% on temporary structures, learned counsel for the assessee would fairly contend that the temporary structure in a parking shed, in respect of which this Court, in *TVS Motors Ltd.*[10], has held that applicable rate of depreciation would only be 10%. Hence, the order of the Assessing Authority is restored on this issue and this question is answered in favour of the Revenue and against the assessee.

11. In fine, questions (i) to (v) are answered in favour of the assessee. Question (vi) is answered stipulating the rate depreciation at 60% and question (vii) is answered in favour of the Revenue and adverse to the assessee. This Tax Case (Appeal) is disposed of in terms of this order. No costs.

(A.S.M.,J.) (K.R.S.,J.)
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Index: Yes/No
Speaking order
Neutral Citation: Yes

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[10]Footnote Supra 1

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