

## **Depreciation allowed on plant which was ready to use but couldn't be used due to shortage of materials**

**Summary – The High Court of Madras in a recent case of Chennai Petroleum Corpn. Ltd., (the Assessee) held that where assessee claimed depreciation on plant and Assessing Officer declined depreciation on plea that plant had never been put to use for purposes of business during whole of previous year, since assessee's business was a going concern and plant could not be put to use due to raw material paucity, assessee was entitled to depreciation on plant.**

### **Facts**

- The assessee had built up a gas sweetening plant in the previous year relevant to the assessment year 1997-98. The Assessing Officer had allowed depreciation on the plant for the assessment year 1997-98. For the subsequent assessment year 1998-99, the assessee also claimed depreciation on the plant. On account of non-availability of raw material, i.e., sour gas, the plant was not put to use.
- The Assessing Officer rejected the claim for depreciation on the plea that when the plant had never been put to use for the purposes of the business during the whole of the previous year, grant of relief could not be maintained under law.
- On appeal, the Commissioner (Appeals) upheld the order of the Assessing Officer.
- On second appeal, the Accountant Member held that once admittedly the gas plant was ready to use, it must have suffered some wear and tear, Hence, the assessee was entitled to the claim for depreciation. The Judicial Member, however, took a different view and held that the assessee was entitled to the claim for depreciation only if the asset was, in fact, used for business purposes. Thereupon the matter was referred to the Third member, who held that in order to claim depreciation under section 32, it was not necessary that machinery in question should have been actually used in the previous year for the purposes of business. The machinery was kept ready for use in the relevant previous year, though not actually used for the reasons beyond the assessee's control. Thus the Third Member agreed with the view taken by the Accountant Member in favour of the assessee and granted the relief.
- On appeal to High Court:

### **Held**

- So long as the assessee's business was a going concern and the plant got ready for use but due to certain extraneous circumstances it could not be put to use, the said fact could not stand in the way of granting relief under section 32.
- Under the stated circumstances that the assessee's business was a going concern and the plant could not be put to use due to raw material paucity, the majority view of the Tribunal deserved to be confirmed.