

ITAT upheld CIT's revisional order as AO had erroneously granted higher depreciation on windmills

Summary – The Cochin ITAT in a recent case of Peekay Steel Castings (P.) Ltd., (the Assessee) upheld CIT's revisional order as AO had erroneously granted higher depreciation on windmills.

Facts

- In the course of assessment, the Assessing Officer opined that the assessee was entitled for higher rate of depreciation not only on the windmill but also on the transformer and other items used in DP yard.
- However, the Commissioner found that the copper wound transformer and other electrical items used in DP yard were not eligible for higher rate of depreciation.
- The Commissioner further found that regarding the issue of higher depreciation the Assessing Officer had not applied his mind or conducted proper enquiry.
- The Commissioner thus passed a revisional order setting aside the assessment order.
- On appeal:

Held

- The proceeding before the Administrative Commissioner is a judicial proceedings under section 136 of the Act. The judicial/administrative order shall contain the reasons for the conclusion in the order itself. In other words, both the judicial and administrative order shall be of speaking order. The application of mind to the materials available on record should be reflected in the order. The reasons for the conclusion reached in the judicial/administrative order cannot be supplemented by way of filing affidavit/documents before the appellate/revisional authority.
- In the instant case, the Assessing Officer has not discussed anything in the assessment order. It is not known why the claim of the assessee for higher depreciation was allowed on the windmill. In the absence of discussion in the assessment order, the revisional/appellate authority cannot appreciate the reason for the decision taken by the lower authority.
- Therefore, it is incumbent upon the Assessing Officer to discuss the issues raised for consideration in the assessment order and record his own reasoning for the conclusions reached therein. Since the Assessing Officer has not discussed anything in the assessment order regarding the depreciation on the windmill, it shows the non application of mind to the material available on record.
- In view of the above, the Assessing Officer has not applied his mind to the material available on record. Therefore, the Commissioner has rightly exercised his jurisdiction under section 263.
- With the above observations, the appeal of the assessee stands dismissed.