

Loaders, water tankers eligible for 30% depreciation if used in business of transportation of goods on hire

Summary – The Chennai ITAT in a recent case of Suthanther Assumtha., (the Assessee) held that Vehicles used in business of transportation of goods on hire would be entitled for higher rate of depreciation; benefit of higher depreciation would be allowed on pay loaders, dozers and water tankers

Facts

- The assessee was engaged in the business of transport claimed depreciation at the rate of 30 per cent on pay loader, dozers and water tankers.
- It was found by the Assessing Officer that assessee had entered in agreement with Anand Transport to supply pay loaders for hatch work, loading materials into trucks from wharf etc. The Assessing Officer further found that depreciation at the rate of 30 per cent given in appendix to Income-tax Rules, 1962 at Part II(3)(ii) mentioned that vehicles which were used in the business of running them on hire and the assessee was using his own vehicles for his own business and there was no hiring of vehicles. The Assessing Officer disallowed the claim of higher rate of depreciation holding that same was available only for buses, lorries and taxis used in the business of running on hire.
- On appeal, the Commissioner (Appeals) allowed the appeal of assessee.
- On appeal to the Tribunal:

Held

- There is no dispute that the assessee was engaged in the business of transportation of coal and iron ore. No doubt, a reading of the agreement entered into by the assessee with Anand Transport clearly brings out that assessee was to supply pay loader for hatch work, loading materials into trucks from wharf and transporting the material from stockyard to Chennai Port Trust, carrying goods from stockyard to railway siding and loading of goods into railway wagon. The said contract clearly mentions that assessee could use pay loaders, dozers, water tankers, tippers given by Anand Transport in addition to what were used by it.
- It is clear from the Circular No. 652 (*supra*), that the motor lorries used by the assessee in the business of transportation of goods on hire would be eligible for higher rate of depreciation. In other words, by virtue of this Circular, higher rate of depreciation at the rate of 30 per cent mentioned in Part II(3)(ii) of Appendix to the Income-tax Rules would get an extended meaning than what literally follows on their reading. The extended meaning would bring into its fold use of motor vehicles in a business of transportation of goods on hire. The agreement entered by the assessee with Anand Transport clearly shows that its duty was to transport the goods provided by Anand Transport from one place to another. Element of 'hiring' was absent. The Bombay High Court in the case of *CIT v. S.*

C. Thakur & Bros. [\[2010\] 322 ITR 463/\[2009\] 180 Taxman 348](#) has clearly held that Circular No. 652 (*supra*) was admissible when the motor lorries were used by the assessee in its own business of transporting of goods on hire.

- Thus, Commissioner (Appeals) has taken a justifiable view that assessee would be eligible for higher rate of depreciation on the vehicles used by it for transportation of goods in its business of transportation of goods on hire.