

Depreciation on machinery was to be allowed even if it was used only for trial production: Bombay HC

Summary – The High Court of Bombay in a recent case of Larsen & Toubro Ltd., (the Assessee) held that Depreciation in respect of machinery to be allowed even if same was used only for trial production

Facts

- The assessee had claimed depreciation in respect of the machinery installed and put to use in the production of cement. A trial run was conducted for one day and the quantity produced was small. After the trial run, commercial production of cement was initiated within reasonable time.
- According to the Assessing Officer, use of machinery for trial production was not for the purpose of business and, therefore, depreciation could not be allowed. The assessee had not produced any evidence to show as to when exactly commercial production commenced.
- On appeal, the Commissioner (Appeals) confirmed the disallowance finding that there was a long gap between the first trial run, subsequent trial runs and commercial production. He concluded that the user of the assets during the year should be actual, effective and real user in the commercial sense and that some technical snag had developed in the plant and therefore the trial run was stopped.
- On further appeal, the Tribunal held that the assessee would be entitled to claim depreciation. It held that once the plant commenced operations and a reasonable quantity of product was produced, the business was set up even if product was sub-standard and not marketable.
- On revenue's appeal to the High Court:

Held

- In facts of the present case, the issue is no longer *CIT v. res integra* in view of the decision of *CIT v. Industrial Solvents & Chemicals (P.) Ltd.* [1979] 119 ITR 608 (Bom.). The order of the Tribunal cannot be faulted inasmuch as the jurisdictional High Court has already held that once plant commences operation and even if product is substantial and not marketable, the business can said to have been set up. Mere breakdown of machinery or technical snags that may have developed after the trial run which had interrupted the continuation of further production for a period of time cannot be held ground to deprive the assessee of the benefit of depreciation claimed.