

ITAT allowed additional depreciation on RMC mixer mounted on truck

Summary – The Ahmedabad ITAT in a recent case of Innovative Infrastructure (P.) Ltd., (the Assessee) held that where assessee was engaged in business of manufacturing of Ready Mix Concrete (RMC) and carrying it to construction site, it could not be allowed higher rate of depreciation on trucks on which said RMC was mounted for transporting it to construction site; however, transit mixer mounted on vehicle was nothing but a plant and machinery and, thus, eligible for higher rate of depreciation under section 32(1)(ia)

Facts

- The assessee was engaged in the business of manufacturing of Ready Mix Concrete ('RMC') which was primarily required in construction business. For manufacture of RMC, the raw materials such as cement, kapchi, sand and fly ash and chemicals were mixed to produce RMC.
- The manufacturing of the RMC was done at batching plant and thus, RMC came into existence at the factory. Thereafter, an ancillary process was done at transit mixer *i.e.* mixture on transit from factory to site was kept in a wet form which could be utilized at construction plant. The movement of RMC was done in Road Transport Vehicle on which a transit mixer was suitably mounted.
- The assessee claimed that the vehicle used for transit should be taken as vehicles used for 'hire' eligible for higher rate of depreciation allowance at the rate of 30 per cent.
- The Assessing Officer, however, restricted assessee's claim for depreciation at the rate of 15 per cent.
- The Commissioner (Appeals) confirmed the order passed by Assessing Officer.
- On second appeal:

Held

- The assessee primarily seeks accelerated depreciation on truck/chassis on which mixers is mounted equivalent to what is available to vehicles used for hire. It is the case of the assessee that chassis truck should be treated akin to being used in the business of running it on hire owing to composite nature of contract and consequently higher rate on depreciation at 30 per cent should be allowed to the assessee instead of allowance at 15 per cent.
- There is no merit in the aforesaid plea of the assessee on the ground that the assessee could not demonstrate such narrative on facts as to whether the assessee has earned any receipt towards hire of vehicle in the so-called composite contract. No evidence has been produced to justify the presence of element of receipt on account of hire of vehicle. Therefore, the contention of the assessee is abstract and cannot be endorsed. Therefore, the action of the Assessing Officer cannot be interfered with on this score.

- However, there is substantial force in the alternative claim raised by the assessee for allowability of additional depreciation on mixer mounted on the vehicle as eligible under section 32(1)(ia). Section 32(1)(ia) provides for entitlement of additional depreciation in the case of new plant and machinery installed after specified date by an assessee engaged in the business of manufacturing or production of any article or thing. The transit mixer is stated to be mounted on the chassis to enable the RMC manufactured/produced at site to be kept in the wet form for its utilization at construction plant.
- Therefore, transit mixer mounted on the vehicle is nothing but a plant and machinery where ancillary process is done as a continuation of manufacture/production contemplated under section 32(1)(ia) of the Act. Therefore, the alternative contention of the assessee for allowability of additional depreciation on mounted mixer is accepted.
- In the result, appeal of the assessee is partly allowed.