

## Capital expenditure - Expenditure on improvement of leasehold building is not revenue expenditure but capital in nature

**Summary – The High Court of Madras in a recent case of Viswams., (the Assessee) held that expenditure on improvement of leasehold building is not revenue expenditure but capital in nature**

### Facts

- The assessee firm had taken on lease a building and carried out further construction on the same and some interior improvements. The cost of construction and the cost of interior improvements were debited under the head 'maintenance'.
- The AO held that the expenditure had to be considered as revenue expenditure since the assessee was not the owner of the premises.
- On appeal, the Commissioner (Appeals) considering **Explanation 1** to section 32 held that the said **Explanation** specifically provide that where such expenditure was incurred in a premises taken on lease, the said structure or building was deemed to be owned by the assessee. Consequently, what was material was the nature of the expenditure and not the ownership of the premises.
- On further appeal the Tribunal reversed the order of the Commissioner (Appeals) and held impugned expenditure incurred by the assessee as revenue in nature.
- On revenue's appeal to the High Court:

### Held

- The HC noted that it had been admitted before all the authorities that the assessee is only a lessee of the premises in question. This being a fact which had been settled, cannot be re-examined on the basis of the specious argument advanced.
- The facts of the case clearly show that the assessee has actually put up substantial construction of enduring benefit and also renovated the building for the purpose of their business.
- The expenditure incurred by the assessee in the present case are capital in nature and come within the mischief of **Explanation 1** to section 32(1).