(2002) 07 MAD CK 0274

In the Madras High Court

Case No : T.C. No. 1244 of 1992

Abirami Theatres Pvt. Ltd. APPELLANT

Vs

Inspecting Assistant Commissioner RESPONDENT

Date of Decision : 09-07-2002

Acts Referred:
Income Tax Act, 1961 — Section 32A

Citation : (2002) 258 ITR 661

Hon'ble Judges : V.S. Sirpurkar, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : R. Kumar, for T.N. Seetharaman, for the Appellant; T.C.A. Ramanujam, for the Respondent

Judgement

N.V. Balasubramanian, J.—In pursuance of the directions of this court, the Income Tax Appellate Tribunal has stated a case and referred the following question of law in relation to the assessment year 1983-84 :

"Whether, on the facts and circumstances of the case, the Appellate Tribunal was justified in holding that the appellant was not entitled to claim any investment allowance on the projector and air-conditioning plant installed during the relevant previous year ?"

2. The point that arises in the tax case is whether the assessee, a cinema theatre, is entitled to claim investment allowance in respect of the air-conditioning plant as well as on the projector installed by it in the theatre.

3. All the authorities have rejected the claim of the assessee for investment allowance on the ground that the assessee is not engaged in the manufacture or production of any article or thing by the installation of the projector or air-conditioning plant, which is a prerequisite condition to be complied with to claim the deduction of investment allowance. We are of the view that the cinema projector was not installed and used by the assessee to manufacture or produce any article or thing. The primary function of the cinema projector is to project

the film and there is no manufacture of any article or thing in the projection of the cine film in a cinema theatre. As far as the air-conditioning plant is concerned, it is installed only for the purpose of giving comfort to the spectators at the time of viewing the films and the air-conditioning unit was not installed or used to produce any article or thing. We find that a similar view was taken by this court in Adayar Gate Hotels Ltd. Vs. Commissioner of Income Tax, , wherein it was held that the air-conditioning plant installed does not qualify for investment allowance. We, therefore, hold that the Tribunal was correct in holding that the assessee is not entitled to claim investment allowance on the projector as well as air-conditioning plant installed in the cinema theatre. Accordingly, the question of law referred to us is answered against the assessee and in favour of the Revenue. No costs.

