(1995) 09 MAD CK 0064

In the Madras High Court

Case No : T.C. No. 551 of 1987 (Reference No. 331 of 1987)

Commissioner of Income Tax APPELLANT

Vs

S.C.S. Rig Service RESPONDENT

Date of Decision : 07-09-1995

Acts Referred:
Income Tax Act, 1961 — Section 256, 32

Citation : (1996) 220 ITR 64

Hon'ble Judges : Venkatachaliah, J;Abdul Hadi, J

Bench : Division Bench

Advocate : N.V. Balasubramaniam, V.S. Jayakumar, for the Appellant; N.V. Balasubramaniam, for the Respondent

Judgement

Abdul Hadi, J.—In this tax case reference u/s 256 of the Income Tax Act, 1961, at the instance of the Revenue, the Tribunal below held

that the assessee is entitled to depreciation at the special rate of 30 per cent. provided in entry III(ii) D(9) of Part I of Appendix I to the Income

Tax Rules, 1962, in respect of rigs and compressors used for drilling borewells. If the said special rates were not applicable, admittedly only ten

per cent. depreciation could be granted. But, the Tribunal has held that the rigs and compressors used by the assessee form part of ""motor lorries

spoken to in the abovesaid item D(9) under the Income Tax Rules. But, in another tax case reported in Commissioner of Income Tax Vs. Popular

Borewell Service and others, , arising out of another order of the Tribunal dated July 30, 1985, in I.T.A. No. 1092 of 1984, this court held in an

almost identical situation that the abovesaid rigs and compressors cannot be integral parts of the abovesaid motor lorries. The relevant observation

therein is as follows (page 20) :

Merely because the rig and compressor are mounted on a lorry to facilitate easy and convenient transport from one place to another, it cannot be

said that the rig and compressor either constitute integral parts of a lorry by themselves nor can they be appropriately called or known as a ''lorry'',

as understood in common parlance. Therefore, the rig and compressor used drilling borewells, though mounted on a lorry, cannot be held to fall

under ''motor lorry'' occurring in entry III(iii) D(9) of Part I of Appendix I to the Rules.

Therefore, according to learned counsel for the Revenue, this tax case is covered by the said decision and the question referred to us has to be

answered in the negative and in favour of the Revenue. Mr. V.S. Jayakumar, learned counsel for the respondent, also agrees accordingly. Hence,

the question referred to us is answered in the negative and in favour of the Revenue. No costs.