(2003) 04 DEL CK 0087

In the Delhi High Court

Case No : IT Appeal No. 39 of 2002 10 April 2003

Commissioner of Income Tax APPELLANT

Vs

Vikas Leasing Ltd. RESPONDENT

Date of Decision : 10-04-2003

Acts Referred:

Citation : (2003) 131 TAXMAN 303

Hon'ble Judges : Madan B. Lokur, J;Madan B. Loikur, J;D.K. Jain, J

Bench : Full Bench

Advocate : R.D. Jolly, for the Revenue Ms. Pinky Anand, for the assessee, for the Appellant;

Final Decision : Dismissed

Judgement

In this appeal u/s 260A of the Income Tax Act, 1961, the revenue seeks to challenge the order passed by the Income Tax Appellate Tribunal on 30-7-2001 in ITA No. 6053 (Del) of 1995, pertaining to the assessment year 1992-93.

2. The only issue, which is sought to be raised by the revenue, is as to whether the commercial vehicles leased out by the assessed for running them on hire, would be entitled to higher rate of depreciation at 40 per cent or not.

3. Insofar as this court is concerned, the issue raised is no more res integra. In Commissioner of Income Tax Vs. Bansal Credits Limited, Pratap Singh, MGF Limited, Motor and General Finance Ltd., MGF India Limited, Rungta Irrigation Ltd. and Anuvrat (P) Limited, this court has held that on a plain reading of section 32 of the Act and Entry III(2)(ii) in Appendix I to the Rules, it is clear that it is the user of the substantial asset which is relevant for determining the percentage of depreciation under the said section. If it is found that the leased out vehicle is used for running it on hire, depreciation at a higher rate is to be allowed.

4. In view of the said decision, no question of law survives for our consideration.

5. The appeal is accordingly, dismissed.

