Avery Cycle Industries Limited v. Commissioner of Income Tax (Central), Ludhiana

ITA 179/2005

No neutral citation stated in source | 2007-01-19

Additional depreciation ground based on existing record restored for Tribunal decision.

254 | 260A

High Court of Punjab and Haryana | Division Bench | M.M. Kumar | Vinod K. Sharma

Assessment years:

01 FACTS OF THE CASE

The Tribunal refused an additional ground concerning correct depreciation and consequential taxable income. The ground dated 9 April 2004 alleged that written-down values for the old and new Pahwa Steel & Tube Mills units of Avery Cycle had not been correctly brought forward from the preceding assessment year. The company appealed against that refusal.

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02 DISCUSSION BY THE HON'BLE COURT

Applying National Thermal Power Co. Ltd., the Court held that a legal question arising from facts already in the assessment record could be raised under section 254 even if omitted before CIT(A). It found all relevant facts for the depreciation ground already on record and referred to Rule 11. The remaining task was to decide the claim according to the Act.

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03 JUDICIAL DECISION

The Tribunal order of 29 October 2004 was set aside. The Tribunal was directed to deal with the additional ground in accordance with law.

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04 OUTCOME / IN WHOSE FAVOUR

The assessee secured consideration of its additional ground. The High Court did not determine the correct written-down value, depreciation amount or final taxable income.

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05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

Existing assessment facts unlocked the additional ground — The Court expressly found the relevant facts already on record. That finding connects the new legal ground to the Tribunal's appellate jurisdiction and distinguishes a request requiring a fresh factual case. In a comparable application, identify the recorded figures and show how the proposed legal issue affects the correct tax liability.

Admission did not establish the claimed written-down value — The complaint covered carry-forward values of both old and new units, but the Court supplied no replacement figures. The remitted exercise must test the asserted error and its depreciation consequence. Presenting this order as an allowance of a particular deduction would skip the determination expressly left to the Tribunal.

Read the procedural power with the stated qualification — The Supreme Court passage reproduced here recognises the Tribunal's discretion while explaining why a legal issue on recorded facts necessary to correct assessment should be considered. The order is strong support for such an additional ground, not an unrestricted entitlement to introduce any claim irrespective of its factual foundation.

Source: PDF p.2

SOURCE & VERIFICATION

20070119_PHHC010735272005.pdf

Complete source PDF reviewed: 3 physical pages.

All 3 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All three source pages read and visually inspected. Assessment year and correct depreciation amount are not specified.

STATUTORY SCOPE

Section 254 and Rule 11 of the Appellate Tribunal Rules, 1963.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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