Cit Vs. Sangam Cinema

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SooperKanoon Citation : sooperkanoon.com/772609

Court : Rajasthan

Decided On : Aug-21-2002

Reported in : [2003]132TAXMAN1(Raj)

Appeal No. : D.B. IT Reference No. 5 of 1997 21 August 2002

Appellant : Cit

Respondent : Sangam Cinema

Advocate for Pet/Ap. : R.B. Mathur, *for the Applicant*

Judgement :
ORDER

On all application filed under section 256(1) of the Income Tax Act, 1961, the Tribunal has referred the following question for, the opinion of this court :

'Whether on the facts and in the circumstances of the case, the ITAT was right in treating cinema building as Plant and consequently allowing higher depreciation ?'

2. Heard learned counsel for the revenue. None appeared for the assessee.

3. Mr. Mathur, learned counsel for the revenue submits that now issue in this case is squarely covered by the decision of the Apex Court in the case of CIT v. Anand Theatres : [2000]244ITR192(SC) , wherein their Lordships have taken the view that any building, specially designed cannot be treated as plant.

4. Following the view taken by their Lordships in the case of Anand Theatres (supra), we are of the view that the Tribunal has Committed error in treating the cinema building as plant.

5. In the result, we answer the question proposed in affirmative, i.e., in favour of the revenue and against the assessee.

6. Reference so made stands disposed of accordingly.