

IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA No. 1582/2006

6. COMMISSIONER OF INCOME TAX Appellant
Through Ms. P.L.Bansal, Advocate.

Versus

G.E.POWER SERVICES INDIA LTD. Respondent
Through Ms. Mahua C. Kalra and Mr. Saubhagya
Aggarwal, Advocates.

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE DR. JUSTICE S. MURALIDHAR

O R D E R

10.10.2007

1. In this appeal relevant for the asst. yr. 1998-99, the Income-tax Appellate Tribunal ('Tribunal'), Delhi Bench 'B', New Delhi, in ITA No. 1097/Del/2002 dismissed the case set up by the Revenue.

2. The Revenue has raised four questions of law.

3. Insofar as questions (a), (b) and (c) are concerned, the admitted position is that in view of the decision of this Court in CIT vs. Woodward Governor India (P) Ltd. (2007) 210 CTR (Del) 354 : (2007) 162 Taxman 60 (Del) , no substantial question of law arises.

4. Insofar as question (d) is concerned, the question as raised by the Revenue is as under : "Whether Income-tax Appellate Tribunal ('Tribunal') was correct in allowing a sum of Rs. 4,50,591 being software expenses against the book profit computed under s. 115JA of the Act treating the same as revenue expenditure."

5. The Tribunal has come to the conclusion, and we think rightly, that the expenses incurred by the assessee on software used in its computers, are a revenue expenditure. It is well known that the software used in computers gets obsolete in a short span of time and in any case needs to be updated from time to time. It, therefore, cannot be said to be an asset of enduring nature.

6. Learned counsel for the Revenue has brought to our notice s. 38 of the IT Act, 1961 as amended which suggests that know-how, patent, copy rights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998 and therefore are entitled to depreciation.

7. The amendment to s. 32 is not retrospective and we do not see how it assists learned counsel for the Revenue.

8. In our opinion, no substantial question of law arises. Dismissed.

MADAN B. LOKUR, J

S. MURALIDHAR, J

OCTOBER 10, 2007