ITEM NO.18 COURT NO.1 SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS.4549-4551 OF 2005

M/S. VIJAY GRANITIES PVT. LTD. Appellant (s)

VERSUS

COMMNR. OF INCOME TAX, COIMBATORE Respondent(s)

(With office report)

Date: 04/09/2012 These Appeals were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Appellant(s) Mr. V. Prabhakar,Adv.
Ms. Jyoti Prashar,Adv.
Ms. Revathy Raghavan,Adv.

For Respondent(s) Mr. R.P. Bhatt,Sr.Adv.
Mr. Rahul Kaushik,Adv.
Mr. Vikas Malhotra,Adv.
Ms. Anil Katiyar,Adv.
for Mr. B.V. Balaram Das,Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel on both sides.

The civil appeals are disposed of.

No order as to costs.

[Alka Dudeja] [Indu Satija]
A.R.-cum-P.S. Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.4549-4551 OF 2005

M/s. Vijay Granites Pvt. Ltd. ...Appellant(s)

Versus

Commissioner of Income Tax, Coimbatore ...Respondent(s)

O R D E R

Heard learned counsel on both sides.

In these civil appeals, the short question involved is whether the assessee has undertaken activity which results in production and, consequently, whether the assessee is entitled to claim the benefit of investment allowance under Section 32A of the Income Tax Act, 1961 [for short, 'the Act']?

On going through the record, we find that the assessee has not led evidence before the Assessing Officer as to the exact nature of activities undertaken by it in the course of mining, polishing and export of granites. This Court has repeatedly held that whenever assessee claims investment allowance under Section 32A of the Act, it has to lead evidence to show that the process undertaken by it constitutes 'production'. This is because the word 'production' is the controlling word in Section 32A of the Act.

....2/-

For the above reasons, we set aside the impugned judgment of the High Court as well as of the Tribunal and we remit the case to the Assessing Officer. The Assessing Officer will give opportunity to the assessee to produce relevant evidence. The entire inquiry shall be completed within three months from the date of receipt of the record.

The civil appeals are, accordingly, disposed of.

No order as to costs.

.........................CJI.
[S.H. KAPADIA]

...........................J.
[MADAN B. LOKUR]

New Delhi,
September 04, 2012.
-ad-