

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).8481 OF 2016
(Arising out of SLP(C) No.27718/2014)

AWASTHI TRADERS

...APPELLANT(S)

VERSUS

COMMISSIONER OF INCOME-TAX-I,
AGRA AND ANR

...RESPONDENT(S)

WITH

CIVIL APPEAL NO(S).8738 OF 2016
(Arising out of S.L.P. (C)...CC No. 10169/2014)

CIVIL APPEAL NO(S).8739 OF 2016
(Arising out of SLP(C) No.14325/2014)

CIVIL APPEAL NO(S).8740 OF 2016
(Arising out of SLP(C) No.15210/2014)

CIVIL APPEAL NO(S).8741 OF 2016
(Arising out of SLP(C) No.15352/2014)

CIVIL APPEAL NO(S).8742 OF 2016
(Arising out of SLP(C) No.15447/2014)

CIVIL APPEAL NO(S).8743 OF 2016
(Arising out of SLP(C) No.2720/2016)

CIVIL APPEAL NO(S).8744 OF 2016
(Arising out of SLP(C) No.22533/2014)

O R D E R

C.A. No.....@ SLP(C) No.27718/2014

Leave granted.

Admittedly, the proviso to Section
44AD of the Income Tax Act, 1961, (herein after
referred to as 'the Act') is applicable to the

appellant-assessee in view of the fact that its income for the assessment year in question, i.e. 2009-2010, is above Rs.40,00,000/- (Rupees forty lakhs only). If that is so, the bar to the entitlement for depreciation under Section 44A(2) of the Act will not apply. Grant of depreciation under Section 32 of the Act would, therefore, become mandatory.

The above facts have been over looked by the High Court in holding that Section 44AD is applicable to the case of the appellant-assessee. We, therefore, set aside the order of the High Court as well as the order of the assessment and direct that necessary steps be taken in accordance with law so far as the assessment year 2009-2010 is concerned.

The appeal is disposed of in the above terms.

C.A. Nos.....@ SLP(C)...CC No. 10169/2014, SLP(C) Nos. 14325/2014, 15210/2014, 15352/2014, 15447/2014, 2720/2016 and 22533/2014

Delay condoned.

Leave granted.

The order passed in Civil Appeal arising out of SLP(C) No.27718 of 2014 shall govern

these cases also. However, if on verification, it is found that the income of the assessee(s) is less than Rs.40,00,000/- (Rupees forty lakhs only) and, therefore, the proviso to Section 44AD of the Income Tax Act, 1961 has application implication, the respondents may seek modification of this order.

The appeals are disposed of accordingly.

.....,J.
(RANJAN GOGOI)

.....,J.
(PRAFULLA C. PANT)

NEW DELHI
AUGUST 30, 2016

ITEM NO.10

COURT NO.6

SECTION IIIA

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

Petition(s) for Special Leave to Appeal (C) No(s). 27718/2014

(Arising out of impugned final judgment and order dated 27/05/2014 in WT No. 640/2013 passed by the High Court of Judicature at Allahabad)

AWASTHI TRADERS

Petitioner(s)

VERSUS

COMMISSIONER OF INCOME-TAX-I, AGRA AND ANR

Respondent(s)

(with interim relief and office report)

WITH

S.L.P. (C) ...CC No. 10169/2014

(With appln.(s) for c/delay in filing and refiling, permission to file additional documents, Interim Relief and Office Report)

SLP(C) No. 14325/2014

(With appln.(s) for permission to file additional documents, permission to file additional documents, Interim Relief and Office Report)

SLP(C) No. 15210/2014

(With appln.(s) for permission to file additional documents, permission to file additional documents, Interim Relief and Office Report)

SLP(C) No. 15352/2014

(With (With appln.(s) for permission to file additional documents and appln.(s) for permission to file additional documents and Interim Relief and Office Report)

SLP(C) No. 15447/2014

(With appln.(s) for permission to file additional documents, permission to file additional documents, Interim Relief and Office Report)

SLP(C) No. 2720/2016

(With Office Report)

SLP(C) No. 22533/2014

(With appln.(s) for permission to file additional documents, permission to file additional documents, c/delay in refiling SLP and Office Report)

Date: 30/08/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Pawanshree Agrawal, Adv.

For Respondent(s) Mr. K. Radhakrishnan, Sr. Adv.
Mr. H. Raghavendra Rao, Adv.
Mr. Arijit Prasad, Adv.
Ms. Mukti Choudhary, Adv.
Mrs. Anil Katiyar, Adv.

Mr. B. V. Balaram Das, Adv.

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

Delay condoned.

The appeals are disposed of in terms of the
signed order.

As a sequel to the above, all pending
interlocutory applications are also disposed of.

(Neetu Khajuria)
Court Master

(Madhu Narula)
Court Master

(Signed order is placed on the file.)