Assessee entitled to Carry Forward Depreciation loss beyond 8 Years

Fact of the Case

1. In the present problem the revenue department is the applicant who has filed the appeal under Section 260A of the Income Tax Act, 1961, directed against the order on the file of the Income Tax Appellate Tribunal, Chennai for the assessment year 2006-07.
2. The issue raised was unabsorbed depreciation loss pertaining to the assessment year 1997-98 could be set off against income of the assessment year 2006-07 and is not the finding of the Tribunal directing the Assessing Officer to set off the unabsorbed depreciation pertaining to the assessment year 1997-98 based, especially when the intention of the legislature was not to carry forward the unabsorbed depreciation beyond eight years from the year of computation.

Decisions of the Case

1. The division bench of Justice T.S. Sivagnanam and Justice Sathi Kumar Sukumara Kurup took into consideration the case CIT vs. Sanmar Speciality Chemicals Ltd. wherein it was held that the current year's depreciation is allowed to be set off against the income from the business as well as against the other heads of income and unabsorbed depreciation in carrying forward and become part of the depreciation of the subsequent year and the total depreciation becomes current year's depreciation as per section 32(1) of the Act, which is allowed to be set off against the income under any head of income.
2. The Madras High Court ruled that the assessee is entitled to Carry Forward Depreciation loss beyond 8 Years.