

&
SLP(C)No. 11567 OF 2000

ITEM No.204

Court No. 2

SECTION IIIA
A/N MATTER

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 (Civil) No.11567/2000

(From the judgement and order dated 23/09/1999 in ITR 27/97
of The HIGH COURT OF KERALA AT ERNAKULAM)

COMNR. OF INCOME TAX, COCHIN

Petitioner (s)

VERSUS

M/S. ABAD HOTELS INDIA PVT.LTD.

Respondent (s)

(With prayer for interim relief and office report)
(For Final Disposal)

Date : 10/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Petitioner (s) Mr. R.N. Trivedi,ASG.
Mr. Rajiv Nanda,Adv.
Mr. B.V. Balaram Das,Adv
for Ms. Sushma Suri,Adv.

For Respondent (s)

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

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Leave granted.

The civil appeal is allowed.

No order as to costs.

(T.I. Rajput)
Court Master

(Shelly Sengupta)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No.5243 of 2001@@
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(Arising out of S.L.P. (C) No.11567 of 2000)

Commissioner of Income Tax, Cochin ...Appellant (s)

Versus~

M/s. Abad Hotels India Pvt. Ltd.Respondent (s)

O R D E R@@
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Leave granted.

The notice on the special leave petition stated that it was limited to the question: Whether a hotel building is a plant entitled to depreciation at the rate that is applicable to plants and whether the assessee is entitled to investment allowance under Section 32(A) of the Income Tax Act?

The respondent was served but did not put in an appearance. It then appeared to the court that the matter was covered against the respondent by the judgment of this court in Commissioner of Income Tax vs. Anand Theatres (244 I.T.R.@@

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192). Fresh notice to this effect was again served on the respondent. It has, however, not put in an appearance. The

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question is covered by the decision afore-mentioned.

Accordingly, the civil appeal is allowed. The judgment and order under challenge is set aside.

No order as to costs.

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.....J.
(S.P. Bharucha)@@
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.....J.
(Y.K. Sabharwal)@@
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New Delhi,
August 10, 2001.