

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8742 OF 2013
 [ARISING OUT OF S.L.P. (C) NO. 4102 OF 2013]

C.I.T.-VII	...	APPELLANT(s)
Versus		
M/S. SIEMENS	...	RESPONDENT(s)

O R D E R

Leave granted.

2. In the appeal filed by the revenue before the High Court under Section 260-A of the Income Tax Act, 1961, following four questions were raised:

A. Whether, on the facts and in the circumstances of the case in law, the Hon'ble I.T.A.T. is right in directing to consider the inclusion of write off of Dadri asset of Rs. 4 lakhs and loss on sale/write off of fixed assets as profit of business for computing the allowable deduction under Section 32AB of the Act despite the fact that these items are not covered under the adjustments to be made under Section 32AB(3) of the Act and also due to the fact that the assessee itself has not treated these assets as capital item on which depreciation is charged?

B. Whether, on the facts and in the circumstances of the case in law, the Hon'ble I.T.A.T. is right in directing to consider the purchases of internal manufactured assets for the purposes of deduction under Section 32AB of the Act?

C. Whether, on the facts and in the circumstances of the case in law, the Hon'ble I.T.A.T. is right in directing to the addition made on account of disallowance of expenditure on temporary construction of site office and building despite the fact that it is capital expenditure?

D. Whether, on the facts and in the circumstances of the case in law, the Hon'ble I.T.A.T. is right in directing to allow the deduction of interest claimed on borrowings for payment of taxes?

3. As regards questions A & C, the High Court has admitted the appeal on these two substantial questions of law.

4. Insofar as question D is concerned, the High Court has observed that the said question does not arise from the impugned order of the Income Tax Appellate Tribunal (for short "the Tribunal").

5. As regards question B, the High Court has held that the said question is covered by a decision of that court in the case of CIT vs. Antifriction Bearings Corporation Ltd. 2000 (246) ITR 295. It is this part of the order which is subject matter of challenge in this appeal.

6. In our view, question B is a substantial question of law which needs to be decided by the High Court in the pending appeal. We,

accordingly, set-aside this part of the order. In other words, question B shall also be decided by the High Court along with questions A and C in the pending appeal being I.T.A. No. 419 of 2010 - The Commissioner of Income Tax-7 vs. Siemens Ltd.
7. Appeal is disposed of as above. The parties shall bear their own costs.

.....J.
(R.M. LODHA)

.....J.
(MADAN B. LOKUR)

NEW DELHI
SEPTEMBER 27, 2013.

ITEM NO.60

COURT NO.3

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).4102/2013

(From the judgement and order dated 23/11/2011 in ITA No.419/2010 of The HIGH COURT OF BOMBAY)

C.I.T-VII

Petitioner(s)

VERSUS

M/S SIEMENS

Respondent(s)

Date: 27/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr. Rajiv Dutta, Sr. Adv.
Ms. Rekha Pandey, Adv.
Mr. T.M.Singh, Adv. for
Mrs Anil Katiyar, Adv.

For Respondent(s) Mr. Nitesh Joshi, Adv.
Mr. Rustom B.Hathikhanawala, Adv.

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

Leave granted.
Appeal is disposed of in terms of signed order. The
parties to bear their own costs.

|(Pardeep Kumar)
|Court Master

|(Renu Diwan)
|Court Master

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[SIGNED REPORTABLE JUDGMENT IS PLACED ON THE FILE]