



Global Business Tax Alert Sharp Insights

Victory Aqua Farm Ltd.
(Supreme Court)

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In this issue:
Upcoming Dbriefs - Register
Contacts

Supreme Court held that 'functional test' has to be applied to determine whether an asset is 'plant'. A pond designed especially for rearing/ breeding of prawns is held to be 'plant' and depreciation is eligible on such plant under the Income Tax Act, 1961 (Act).

Facts in brief are that the assessee is a company doing business of Aqua Culture. It grows prawns in specially designed ponds. It claimed depreciation on these ponds considering them as tools to the business and therefore constituting 'plant' within the meaning of Section 32 of the Act. The question of law before the Supreme Court was whether 'natural pond' specially designed for rearing prawns can be treated as 'Plant' within the meaning of Section 32 of the Act and whether depreciation could be claimed on such plant.

The Apex Court referred to its earlier judgment in the case of *CIT v. Karnataka Power Corporation (2002(9) SCC 571)*. In that judgment, the electricity generating station buildings was held to be a plant for the purpose of granting investment allowance since the same was an integral part of its generating system. It was held in that judgment that the question basically is a question of fact and where it is found as a fact that a building has been so planned and constructed to serve an assessee's special technical requirements, it will qualify to be treated as a plant for the purpose of investment allowance.

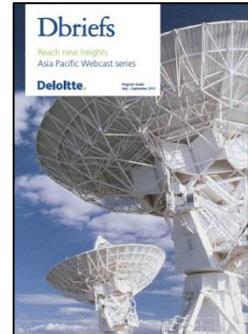
The Supreme Court held that the impugned High Court judgment rightly relied on 'functional test' and since the ponds were specially designed for rearing/ breeding of the prawns, they have to be treated as tools of the business and depreciation was admissible on these ponds.

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