

A case Study : Depreciation on Wind Mill

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It is an economic stimulus tragedy . The income tax department has knack to identify few non controversial issues, which can be converted into controversies. Experts lament on this kind of approach with sigh. In the result , one needs to battle out these issues thru legal process . In a lighter tone , it is said , such approach gives stimulus to litigation practice. Anyway let me come to the legal issue. This article is unleashed from such controversy. One of the non controversial issue of claiming depreciation @ 80% (earlier it was 100%) on windmill is attempted by dissecting the purchase value in building, plant and machinery and Wind Turbine Machine and allowing depreciation at 10%, 15% and 80% respectively. The argument subscribed by Income tax department is , 80% depreciation is available only on " *windmills and any specially designed devices which run on windmills*" which has limited meaning of standing structure of wind turbine generator machine. The logic applied to arrive this conclusion is more dangerous than interpretation. If this approach is going to continue , investment in solar based power project may face heat in coming days.

Historical Backgrounds of relevant provisions:

Under section 32 of Income Tax Act , depreciation is a mandatory to claim while working out Income from Business or Profession. In case assessee does not prefer to claim depreciation at special rate under Rule 5 (1A) , he can claim under New Appendix I (w.e.f. A Y 2006-07) , Part A , heading III , Item no 8 , Sub item (xiii) and clauses (I) for the specified rate of depreciation on wind mills. Which is read as Under :

"(8)

(xiii) Renewable energy devices being

(I) Wind mills and any specially designed devices which run on wind mills" installed on or before *March 31 2012.

Depreciation Rates:

Asst Yr.	Particulars	Rate of Depreciation	Submission
1987-85 to 1987-88	Old Appendix I Part I Heading III Item D Sub Item 10A	30%	Wind mills and special devices runs on wind mill including Electric Generators and pumps are two different category. In case legislator wants to define wind turbine is equal to wind mills then Clause (xiii) was sufficient to cover the intention.

	<p>Clause (xii)</p> <p>Wind Mills and any specially designed devices which run on wind mills</p> <p>Clause(xiii)</p> <p>Any special devices including electric generators and pumps running on wind energy</p>		
1988-89 to 2002-03	<p>Old Appendix I</p> <p>Part A</p> <p>Heading III</p> <p>Item 3</p> <p>Sub Item (xiii)</p> <p>Clause (/)</p> <p>Wind Mills and any specially designed devices which run on wind mills</p> <p>Clause(m)</p> <p>Any special devices including electric generators and pumps running on wind energy</p>	100%	<p>Wind mills and special devices runs on wind mill including Electric Generators and pumps are two different category. In case legislator wants to define wind turbine is equal to wind mills then Clause (m) was sufficient to cover the intention.</p>
2003-04-to 2005-06	<p>Old Appendix I</p> <p>Part A</p> <p>Heading III</p> <p>Item 8</p> <p>Sub Item (xiii)</p> <p>Clause (/)</p> <p>Wind Mills and any specially designed devices which run on wind mills</p> <p>Clause(m)</p> <p>Any special devices including electric generators and pumps running on wind energy</p>	80%	<p>Wind mills and special devices runs on wind mill including Electric Generators and pumps are two different category. In case legislator wants to define wind turbine is equal to wind mills then Clause (m) was sufficient to cover the intention.</p>
2006-07 to 2012-13	<p>New Appendix I</p> <p>Part A</p>	80%	<p>Wind mills and special devices runs on wind mill including Electric Generators and pumps are two different category. In</p>

	<p>Heading III</p> <p>Item 8</p> <p>Sub Item (xiii)</p> <p>Clause (/)</p> <p>Wind Mills and any specially designed devices which run on wind mills</p> <p>Clause(m)</p> <p>Any special devices including electric generators and pumps running on wind energy</p>		<p>case legislator wants to define wind turbine is equal to wind mills then Clause (m) was sufficient to cover the intention.</p>
2013-14	<p>New Appendix I</p> <p>Part A</p> <p>Heading III</p> <p>Item 8</p> <p>Sub Item (xiii)</p> <p>Clause (/)</p> <p>Wind Mills and any specially designed devices which run on wind mills</p> <p>Clause(m)</p> <p>Any special devices including electric generators and pumps running on wind energy</p>	15%	<p>*Income-tax (Fourth Amendment Rules, 2012 – Depreciation restricted to 15% on wind mills installed after 31-3-2012</p> <p>Notification No. 15/2012 [F.No.149/21/2010-SO (TPL)] S.O.694(E), dated 30-3-2012</p>

Income Department's view is to dissect the Purchase value of Wind mill into Building for the value of Foundation cost , normal plant value for labour charges, power evacuation structure cost, grid connectivity charges, transformer cost and all other items other than main wind Turbine equipment. Whether the stand taken by Income Tax department holds good ? This article is evaluating the stand taken by I T department in following paragraphs.

(a) What is a Wind Mill?

A wind mill includes Wind turbine generator, blades, cables, electrical apparatus, towers, permits, rights, transformer, meter and other infrastructures facilities. It is used to generate electricity by converting the kinetic energy of wind into electrical energy.

(b) What is renewable energy?

Renewable energy is energy which comes from natural resources like sun-light, wind, rain, tides and geothermal heat, which are renewable (Naturally replenished). Energy from any source which is not naturally replenish-able is called non-renewable energy. Wind turbine is used to Generate renewable energy.

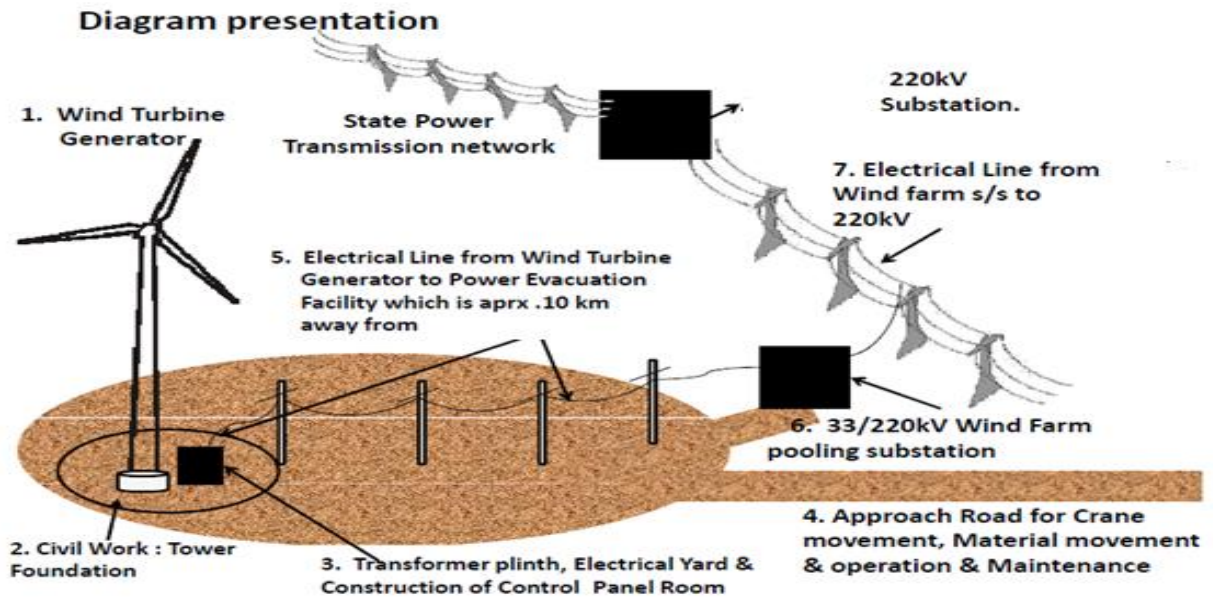


Figure 1 Wind Mill

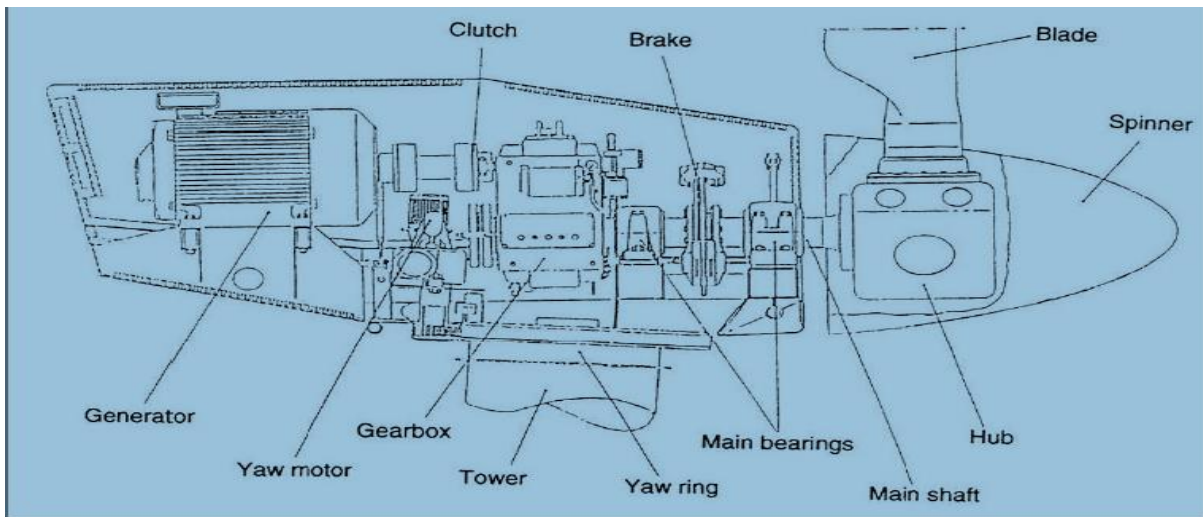


Figure 2. Wind turbine components inside the nacelle.

Thus ,A wind turbine is such device comprises of Tower, Gearbox, brakes, rotor, generator, yaw drive, Nacelle , blades, shaft, which are used to generate electricity by converting the energy of wind into rotational motion, and then in to electricity . The

total expenses incurred for bringing machine shown as per Figure 2 and not only in figure 1, should be construed as wind mill . A stand alone machine as per figure 2 without infrastructure is no use and Infrastructure of figure 1 is also of no use without wind turbine generator . Therefore it is interlinked and interconnected ,which can not be detached or dissected for different rate of depreciation by hypothetical formula.

Income Tax Department Approach:

Sr. no	Nature of work /Item	Allowable % depreciation as per I T Department
1	Supply of Wind turbine generator	80%
2	Erection & installation of WTG And civil including foundation work.	10% in some cases 5%
3	Works contract For Electrical work Including supply and installation of electrical items	15% in some cases 10%
4	Power Evacuation Infrastructure cost	15%
4	Providing sub lease Rights of Land and rights of suitable access of surrounding for Wind mill	May or may not allowable or SLM no of years divided by holding period
5	Any other related expenses	15%

Here whole cost of wind mill purchase is separated as per various contract entered with turnkey project supplier .whether the approach of Income tax department is correct ?

A CASE STUDY:

The first and foremost question comes to mind is whether the dissection done by Department based on various contracts is a correct approach? Answer shall be no. The contracts in this case is prepared for allocation of work among the various agencies of wind mill supplier. Agencies or companies may be associates or outside agency but the fact is Buyer is entering into contract to buy out wind mill from supplier and to ascertain the value of goods and services for other statutory compliance. This understanding may or may not be acceptable . One need to discharge onus based on practical aspects of wind mill .

It should be clear from the works order that all the work to be carried out in relation to Windmill only with specific attached job related to either installation of wind turbine tower or transformer platform or testing and commissioning services or connecting electrical line and cable from main generating unit to metering and grid. Any activity related to passive work or alternate use should be ignored.

The word used in applicable Income tax Rule is "WINDMILL", which has a wide meaning and not confined to generator or gearbox etc. Any act or deed attached to bring wind turbine in active use of power generation should be treated as a part of Windmill. Windmill is a plant as defined under section 43(3) of Income tax act and it is undertaking itself (M/S The Hutti Gold Mines Co. Ltd. vs Department Of Income Tax, ITA No. 832/Bang/2012 –A Y 2008-09). If meaning of wind mill is narrowed to only wind turbine or standing structure of tower or together both, will not justify correct legal position. If meaning is narrow down to such extent, active use of wind turbine will not be possible. All standing equipments are bald and useless. It needs to be integrated and therefore any expenses related to such integration and helping this plant to bring them in use must be said as a part of windmill. Any payment made for labour charges, Government fees, statutory fees, foundation work expenses, electrical components and cables- electrical work within turbine or connecting power generated to grid and transformer expense, metering work charges, surfacing works cost, data lock and control machine cost etc should be treated as a composite cost of Wind mill. *It is mandatory to establish that all expenditures must be relevant to the Windmill and do not result in creating any independent asset.*

It is pertinent to discuss the object of providing higher rate of depreciation on Wind mill. The country was a part of Kyoto protocol treaty and expressed desire to promote renewal energy voluntarily. The country is power deficit and therefore to fillip the gap of power generation by this mode may help to increase the power generation. Keeping in view this, time and again income exemption under section 80IA and 80IB for extension of time limit for setting up power generation unit, amendments have been carried out. Not only that additional depreciation under section 32(1)(iia) has also been provided.

The following passage from Memorandum of Finance (No.2) Bill 1998 suggests the object or thrust of Government to Boost power sector and provide incentives on continuous basis to the electricity generation activities.

FINANCE (No. 2) BILL, 1998 PROVISIONS RELATING TO DIRECT TAXES
"INCENTIVES FOR INFRASTRUCTURE DEVELOPMENT AND INDUSTRIALISATION

Tax Holiday to enterprises generating or generating and distributing power extended up to 31.3.2003.

Under the provisions of section 80-IA of the Income-tax Act, a five-year tax holiday and a deduction of 25% (30% in the case of companies) of profit in the subsequent five years is allowed, inter-alia, to an undertaking engaged in the business of generation, or generation and distribution of power or to an industrial undertaking set up in backward States/districts. The undertaking under the existing provisions should start generating power on or before 31.3.2000.

The country continues to require large investments in power. As the gestation period for such projects is long, to remove uncertainty from the minds of potential investors, the Bill proposes to extend the benefit to undertakings, which commence generation, or generation and distribution of power on or before 31.3.2003. The proposed amendment will take effect from 1st April, 1999 and

will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years. **[Clause 37]**

Thus, it is clear from the explanation made as above that power sector and more particularly Renewable energy generation and use of devices based on such energy are eligible for special treatment in terms of taxation. The higher rate of depreciation is a part of such scheme. If we look at the realistic and practical approach that many investments has made due to tax incentives in the form of higher depreciation rate and tax exemption on such income. One need to take holistic view based on the words used in the Act, Rules and schedules attached to that.

Construction and interpretation of word " Wind Mill –Special designed device":

If word "Wind Mills" interpreted in narrow terms then it may be equated to denial of equity and justice. If in real terms , legislator has intention to allow depreciation only on wind energy equipments, in that case word could have been used Wind Turbine Generator (WTG) and not wind mills. Of course both the word sounds in common language synonymous but wind turbine generator has very limited application. If legislator has intention to provide item based depreciation and not in a comprehensive way, it could have been laid down under Rule 5 (1A), Para Appendix 1A for separate depreciation provision similar to table of Appendix 1A.

Therefore it is humbly perused that all relevant expenditure to bring assets (Wind Mill) in operation, should be capitalized and depreciation at the rate prescribed against windmill should be applied on total value.

Support of followings few judgments may be availed for applying ratio , while interpreting word "windmill".

CAS:1 *In the scheme and context of a taxing provision, it would not be right to isolate a word, ascertain its meaning with reference to Law Lexicons and attach to it a meaning which it was never intended to bear. A statute cannot always be construed with the dictionary in one hand and the statute in the other. Regard must also be had to the scheme, context and to the legislative history of the provision [CIT vs. N.C. Budharaja & Co. Etc. Etc. (1993) 114 CTR (SC) 420.*

CAS:2 *An expression may have a variety of meanings but the sense in which it is employed must be gathered from the context. It would not be correct to adopt a strictly literal or technical meaning of an expression while construing a section. In other words, one must not construe a statutory provision mechanically. One must construe it having regard to the object which the legislature had in view in enacting it and in the context of the setting in which it occurs [CIT vs. Insaniyat Trust (1988) 71 CTR (Guj) 145*

CAS:3 *Words have no absolute meaning. They derive colour from those which surround them. It is true that meanings generally overlap. Few words have exact synonyms. The overtones are almost always different [Brutus vs. Cozens (1972) 3 WLR 521, per Lord Reid]. Words are the greatest tricksters. They play pranks with the human*

mind. The Courts must discover the intention of the legislature. So the Courts must not be strict constructionists. The Courts have to be intention seekers [STO vs. Byford Ltd. (1984) 145 ITR 537 (Del)].

CAS:4 Bajaj Tempo Ltd Vs Commissioner of Income Tax , (1992) 196 ITR 188

Deduction under s. 15C of 1922 Act (s. 80J of 1961 Act)—Allow ability—Industrial undertaking established in a building taken on lease used previously for other purpose—Tools and implements worth Rs. 3,500 of the previous undertaking also transferred—Relief under s. 15C is allowable—Clause (i) of sub-s. (2) of s. 15C does not apply—The provision granting relief was enacted to encourage industrialization and has to be construed liberally—Tools and implements transferred were of insignificant value as compared to the whole assets and literal construction of cl. (i) of s. 15C (2) would defeat the very purpose of enacting the provisions—The key to interpretation is that the new undertaking should not be 'formed' by transfer of building, plant or machinery—Emphasis is on formation not on use.

Case Laws Based on identical facts:

The income tax assessment is based on facts of each case . The facts are varied from case to case or assessment year to assessment year for the same assessee. Therefore each assessment year is consider as independent for assessing the income. However precedent has its own legal value . When facts are identical and judgments are delivered based on similar facts , which is to be considered as precedent. Whether precedent has a legal force, need to be examined . It has two exceptions ;(1) the doctrine of *per incuriam* ;(2) doctrine of *sub-silentio* . Therefore while interpreting statute ,one need to pay attention to the full judgments rather than conclusion of judgments. Of course conclusion is very important but at the same time, while declaring judgments whether judgment passed by same court or larger bench or higher court has been considered or not to be seen. Secondly whether judgments is rendered on the point , which were never been argued is not binding and doctrine of precedent is not applicable. The principle of *stare decisis is important while applying rule of precedent.*

However when the facts are identical , issue is covered by some judgment of Jurisdictional Tribunal or High court , is binding to all lower revenue authorities working within same jurisdiction. The subordinate authorities including commissioner appeals can not take different views by adopting untenable grounds. Interesting two high court judgments ,which are r relying on supreme court 's judgments, are given below.

BANK OF BARODA vs. H.C. SHRIVASTAVA (2002) 175 CTR (Bom) 663 : (2002) 256 ITR 385 (Bom) : (2002) 122 TAXMAN 330 (Bom)

Held

*" The judgment delivered by the Tribunal was very much binding on the AO. The AO was bound to follow the judgment in its true letter and spirit. It was necessary for the judicial unity and discipline that all the authorities below the Tribunal must accept as binding the judgment of the Tribunal. The AO being inferior officer vis-a-vis the Tribunal, was bound by the judgment of the Tribunal and **the AO should not have tried to distinguish the same on untenable grounds. In this behalf, it will not be out of place to mention that in the hierarchical system of Courts which exists in our country, 'it is necessary for each lower tier' including the High Court, to accept loyally the decisions of the***

higher tiers. *'It is inevitable in hierarchical system of Courts that there are decisions of the supreme appellate Tribunals which do not attract the unanimous approval of all members of the judiciary. But the judicial system only works if someone is allowed to have the last word, and that last word once spoken is loyally accepted. The better wisdom of the Court below must yield to the higher wisdom of the Court above.—CCE vs. Dunlop India Ltd. AIR 1985 SC 330 applied.'* (Para 16)

AGRAWAL WAREHOUSING & LEASING LTD. vs. COMMISSIONER OF INCOME TAX
(2002) 177 CTR (MP) 15 : (2002) 257 ITR 235 (MP) : (2002) 124 TAXMAN 440

Held

*Sub-s. (4) of s. 254 attaches finality to the orders of the Tribunal subject to the provisions of s. 256 (or s. 260A). **Needless to say that the orders passed by the Tribunal are binding on all the Revenue authorities functioning under the jurisdiction of the Tribunal. Obviously, the CIT(A) not only committed judicial impropriety but also erred in law in refusing to follow the order of the Tribunal.** Even where he may have some reservations about the correctness of the decision of the Tribunal, he had to follow the order. He could and should have left it to the Department to take the matter in further appeal to the Tribunal and get the mistake, if any, rectified.—Kamlakshi 1991 (55) ELT 433 (SC) applied.'* (Paras 7 & 8)

It is equally accepted principle that Judgment of other jurisdictional Tribunal and High courts are having persuasive value and can not be brushed a side by just saying not applicable or distinguishing facts by placing few words in assessment order or appeal order. The order of jurisdictional tribunal is binding to Income Tax authority .Hence either A O or CIT (A) can not take different views by taking plea that department has not accepted tribunal judgment and has gone for appeal in High court. The relevant judgment's extract is reproduced as under:

ASSISTANT COMMISSIONER OF INCOME TAX vs. RAJAVE TEXTILES (P) LTD. (2013)
22 ITR (Trib) 475 (Chennai)

Held

*"In the case law of KSK Leather Processors Private Limited (supra) the Coordinate Bench above said had decided the issue in favour of the assessee. **On that, the argument of the Revenue was that the said order had not been accepted and it had preferred tax case appeal before the jurisdictional High Court. Such, did not form a valid ground so as to take a different view and that too without any distinguishing features pointed out by the Revenue.** Therefore, CIT(A) had rightly accepted the claim made by the assessee qua depreciation at 80 percent pertaining to the windmills in question. Thus, order of the CIT(A) upheld and Revenue's appeal dismissed."*

(para9 & 10)

In the present case study ,the facts are related to interpreting word " wind Mill" . Bringing wind mill in existence and operation is based on scientific method. wind mill comes in existence by installing various components, hiring labours, getting permission from various state electricity board , connecting power supply cable to state electricity grid or pooling station , developing approach road and laying down cable for power transmission and building control room in case wind mill is Lattice structure otherwise inside the tubular tower. Therefore facts remain same irrespective of size of electricity generation capacity of wind mill . The quantity of work and value of wind mill may go up or down depending on capacity of wind mill. However facts will remain same. Followings are direct judgments on identical facts.

Sr. no	Nature of work /Item	Allowable % depreciation as per I T A.O's version	Tribunal's view
1	Supply of Wind turbine generator	80%	80% . This apparatus is only to be treated as windmill as per A O 's view. Therefore no controversies .
2	Erection & installation of WTG And civil including foundation work.	10% in some cases 5%	<p>80%.</p> <p>1 IN THE INCOME TAX APPELLATE TRIBUNAL AT AHMEDABAD, "A" BENCH ITA No.3317/Ahd/2011, With CO No.44/Ahd/2012 [Asstt.Year:2007-2008] , ACIT (OSD) Vs Parry Engineering & Electronics P. Ltd. Date of Pronouncement : 02-03-2012</p> <p>2 Aminity Developers & Builders, vs Department Of Income Tax, ITA No. 1505/PN/2011 ,Pune Bench</p> <p>3 D.Murugesh, Karur vs Department Of Income Tax , I.T.A. No. 1938/Mds/2011, Assessment Year : 2007-08</p> <p>4 J. Sons Foundry Pvt. Ltd.,, Sangli vs Department Of Income Tax , ITA Nos.815,891,1494&1600/PN/2011</p> <p>5 Enercon Wind Farms (Jaialmer) P. ... vs Department Of Income Tax , ITA No. 6402 to 6405/Mum/2010</p> <p>6 M/s British Weaving Company v. DCIT in I.T.A. No.511/Mds/2009 dated 12th March,2010.</p> <p>7 M/s.Asian Handloom Vs. DCIT (I.T.A. No. No.2291/Mds/2008 dt.20.11.09)</p> <p>8 JCIT Range-1, Sangli Vs. M/s. Western Precicast Pvt. Ltd., Sangli, ITA No.890/PN/2011</p>

			<p>dated 31.12.2012.</p> <p>10%</p> <p>9 Poonawala Finvest and Agro Pvt. Ltd V/s. ACIT (2008) 118 TTJ (Pune) 68.</p> <p>Sent back for factual aspects verification</p> <p>10 The A. C. I. T. (OSD), Circle-5 Vs M/s. Precision Technofab & Engineering, ITA No.3200/Ahd/2011 and 167/Ahd/2012 , (A.Y.: 2008-09 and 2009-10)</p>
3	Works contract For Electrical work Including supply and installation of electrical items	15% in some cases 10%	<p>80%</p> <p>1 IN THE INCOME TAX APPELLATE TRIBUNAL AT AHMEDABAD, "A" BENCH ITA No.3317/Ahd/2011, With CO No.44/Ahd/2012 [Asstt.Year:2007-2008] , ACIT (OSD) Vs Parry Engineering & Electronics P. Ltd. Date of Pronouncement : 02-03-2012</p> <p>2 M/s.Asian Handloom Vs. DCIT (I.T.A. No. No.2291/Mds/2008 dt.20.11.09)</p> <p>3 D.Murugesh, Karur vs Department Of Income Tax , I.T.A. No. 1938/Mds/2011, Assessment Year : 2007-08</p> <p>4 J. Sons Foundry Pvt. Ltd.,, Sangli vs Department Of Income Tax , ITA Nos.815,891,1494&1600/PN/2011</p>
4	Power Evacuation Infrastructure cost	15%	<p>80%</p> <p>1 M/s.Asian Handloom Vs. DCIT (I.T.A. No. No.2291/Mds/2008 dt.20.11.09)</p> <p>2 ASST.COMM.INCOME TAX CIRCLE 1 LUDHIANA VS.RAKESH GUPTA 36 TAXMANN 546 (2013)</p> <p>3 Trumac Engineering Co. (P.) Ltd. v. ITO Mumbai ITA NO. 55S/Mum/2003 dated 27-6-2008</p>
4	Providing sub lease Rights of Land and rights of suitable access of surrounding for Wind mill	May or may not allowable or SLM no of years divided by holding period	<p>80%</p> <p>1 ASST.COMM.INCOME TAX CIRCLE 1 LUDHIANA VS.RAKESH GUPTA 36 TAXMANN 546 (2013)</p>

5	Any other related expenses	15%	80% 1 J. Sons Foundry Pvt. Ltd., Sangli vs Department Of Income Tax , ITA Nos.815,891,1494&1600/PN/2011
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If meaning of Wind mill is interpreted in limited or narrow way i.e. standing tower housed with various machinery equipments, parts and blade then the object for which incentive provisions inserted for accelerated depreciation rate is defeated. Reliance of following judgments can be placed for application of ratio to interpret that word Wind Mill is assigned to composite structure of wind turbine generator and not only standing structure of wind turbine generator .

ADDITIONAL COMMISSIONER OF INCOME TAX vs. MADRAS CEMENTS LTD 110 ITR 281 (MAD), Foundation done in reinforced concrete for fixing machinery is to be treated as part of the plant and depreciation to be allowed on the plant including the cost of the foundation.

CAS 1.3 COMMISSIONER OF INCOME TAX vs. R.G. ISPAT LTD. HIGH COURT OF RAJASTHAN JAIPUR BENCH 210 ITR 1018 (Raj): In order to determine whether a structure is a building or plant, functional test should be applied—If a structure is raised to make the plant operative which could not have functioned in its absence, the structure is plant under s. 43(3)—Massive reinforced concrete structure specially designed to take up load of cranes, therefore, constitutes plant.

CAS 1.4 COMMISSIONER OF INCOME TAX vs. SIBBAL COLD STORAGE, HIGH COURT OF MADHYA PRADESH (1996) 136 CTR (MP) 244, In fact the plant cannot survive independent of building. Some building has to be there in order to house the plant; and as such, the building which houses the plant is a plant. Therefore, the plant includes within its ambit building in which machineries are housed. 'Plant' includes a building in which machineries are housed.

CAS 1.5 [2013] 37 taxmann.com 264 (Ahmedabad - Trib.) IN THE ITAT AHMEDABAD BENCH 'B' Gujarat Green Revolution Co. Ltd. Vs. Assistant Commissioner of Income-tax - 1(1), Seen in the light of the functional test laid down by decision of High Court cited above, we are of the view that in the peculiar facts of the present case the "green house" is an essential part for a company engaged in the business of Tissue Culture. It cannot be considered as a simple "building" but has to be considered as a plant.

CAS 1.6. In the judgment of the Hon'ble Delhi High Court in the case of **CIT v. Mahanagar Telephone Nigam Ltd. as reported in 254 ITR 627**, wherein it has been held that the underground cables for telecommunication network form the link between the telephone exchanges and as such forms part of the apparatus of the plant of the assessee engaged in providing the telecommunication network and therefore, the extra shift allowance was allowed on underground cables.

CAS 1.7 In case of **CIT VS. BSES YAMUNA POWERS LTD (2013) 40 TAXMANN 108 (DELHI)** it has been held that **computer accessories** and peripherals such as, printers, scanners and server, etc., form an integral part of **computer** system and, hence, they are entitled to **depreciation** at higher rate of 60 per cent .

CAS 1.8 In the case of **CIT v Delhi Airport Service [2001] 170 CTR (Delhi) 534** wherein the Hon'ble Delhi High Court held that Air condition plant is an integral part of the bus and therefore, depreciation on air conditioner fixed in bus is allowable at the rate applicable to Bus instead of rate applicable to Air conditioner.

CAS 1.9 In the case of **CIT VS. SRC AVIATION P LTD(2013) 37 TAXMANN 308 (DELHI)** held that All types of crafts or modes of transport aided by flight, are entitled to 40 per cent depreciation. In depreciation table '**airplane-aeroengine**' which is entitled to 40 per cent depreciation, cannot be given a restrictive interpretation so as to include aeroengine only; it will also include 'aircraft' which gives a broader description which includes all manner of craft or means of transport aided by flights such as balloons, planes, etc .

CAS 1.10 **CIT v. Karnataka Power Corporation (247 ITR 268)** where it was held that *whether a the building can be treated as a plant*

Consequently it is profoundly be said ,Wind Mill should mean a comprehensive word and all related expenses for installation ,erection and commissioning of Wind Turbine Generator , incurred for Civil Including Foundation & allied works , Electrical work Including supply and installation of electrical items , Power evacuation infrastructure Cost, Specific Professional fees ,interest payable till electric generation starts, be considered as inseparable part of purchase cost. Therefore Composite /Integrated cost of purchase of Wind mill should be qualified for depreciation at 80% of composite value.

