

**14th KTBA CASE LAW UPDATE
(September 01, 2023)**

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Dear Members,

A brief update on a recent judgment on **“Accelerated Depreciation (Initial Depreciation Allowance) can be claimed on Old buildings”** by Supreme Court of Pakistan is being shared with you for your knowledge.

This update is in line with the efforts undertaken by our **“CASE LAW UPDATE COMMITTEE”** apprise our Bar members with important court decisions.

You are equally encouraged to share any important case law, which you feel that should be disseminated for the good of all members.

You may contact the Committee Convener Mr. Shams Ansari or at the Bar’s numbers 021-99212222, 99211792 or email at info@karachitaxbar.com & ktba01@gmail.com

(Zafar Ahmed)

President

September 01, 2023

(M. Mehmood Bikiya)

Hon. General Secretary

September 01, 2023

**14th KTBA CASE LAW UPDATE
(September 01, 2023)**

ACCELERATED DEPRECIATION (INITIAL DEPRECIATION ALLOWANCE) CAN BE CLAIMED ON OLD BUILDINGS

Appellate Authority: Supreme Court of Pakistan

Appellant: Commissioner IR

Section: 23 of the ITO, 2001

Detailed judgement was issued on 01st February, 2022

BACKGROUND:

The case relates to the interpretation of section 23 of the ITO, 2001, which defines "eligible depreciable asset". The question raised was as to whether the taxpayer can deduct the initial depreciation allowance (accelerated depreciation) on a building, which they use for the first time in a tax year, regardless of whether other taxpayers have previously claimed the initial on the same building when they bought it and used it for their first time. It was claimed that the phrase "first time in a tax year" necessitates that the structure to have been utilized for the first time ever.

RULING OF THE COURT:

The solitary issue remained as to whether the respondent taxpayer can claim the deduction of initial allowance for a building that has been previously used by other taxpayers. The nucleus of the argument remained that the phrase "first time in a tax year" should be understood as the building being used for the first time throughout its entire lifespan. Since the building had previously been utilized by its former owner, it was contended that the second time use of the same building by the respondent taxpayer's does not qualify as the first time, thereby disqualifying them from the initial allowance deduction for the asset.

The section also includes a definition of "eligible depreciable asset," excluding road transport vehicles (unless let out for hire), furniture, fittings and plant or machinery that had been previously used in Pakistan. The Court simply observed that a previously used building has not been excluded and, therefore, is an eligible depreciable asset.

The Court finds no grounds to interfere with the High Court's judgment and dismissed the petitions while denying the request for leave.

CONCLUSION:

Hence, the request for leave is denied, and the petitions are dismissed.

NOTE: Members are requested to read the complete order attached herewith.

DISCLAIMER:

This update has been prepared for KTBA members and carries a brief narrative on a detailed Judgment and does not contain an opinion of the Bar, in any manner or sort. It is therefore, suggested that the judgment alone should be relied upon. Any reliance on the summary in any proceedings or project would not be binding on KTBA.

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Best regards

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President

(M. Mehmood Bikiya)
Hon. General Secretary

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Convener: Case Law Update Committee