

Payment for Acquisition of Leasehold Rights over an Immovable Property is not Rental Income, No TDS applicable: Madras High Court

Fact of the Case

- M/s Nagarjuna oil corporation Ltd. is the assessee in the present situation
- The issue involved before the Tribunal was whether a one-time lump sum paid by the Assessee for getting 99 years lease of land from the Government Undertaking in relation of SIPCOT was a payment in the nature of rental and therefore, the Assessee was required to deduct tax at sources under Section 194 I of the Act and having failed to do so, the said payment was liable to be added back to the declared income of the Assessee
- The council for the Assessee pointed out the decision of a Division Bench of this Court has held that time non-refundable upfront charges paid by the assessee for the acquisition of leasehold rights over an immovable property for 99 years could not be taken to constitute rental income in the hands of the lessor, obliging the lessee to deduct tax at source under section 194-I of the Act and that in such a situation the lease assumes the character of 'deemed sale'.

Decision of the Case

- The Division Bench of Justice Vineet Kothari and Justice M.S. Ramesh while following its earlier decision allowed the appeal of the assessee and held that lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property are not payments in the nature of rent within the meaning of section 194-I of the Act.