

Rental Income from Sub-Lease shall be treated as Business Income since same was Business of Assessee: ITAT

Fact of the Case

1. In present situation a problem is arisen between the Assessing Officer and ITAT regarding the assessment of rental income from sub-lease
2. Earlier, the Assessing Officer treated the lease rental income earned by the assessee as 'income from House Property' as against 'Business Income' offered by the assessee.
3. The Tribunal bench comprising ITAT Vice-President Mahavir Singh and Accountant Member Manoj Kumar Agarwal found that the property under consideration was obtained by the assessee on a long-term lease basis and it was sub-leased to various tenants.
4. The income thus earned was offered as 'business income'. The main object of sub-leasing was to exploit the property in a business-like manner and earn the rental income therefrom. It is also evident that the assessee and his associated entities had a business interest in real estate development.

Decision of the Case

1. Holding in favor of the assessee, the Tribunal held that "in the present case, the appellant is held to be "deemed owner" of the property in question by virtue of Section 27(iiiB) of the Act. On the other hand, under certain circumstances, where the income may have been derived from letting out of the premises, it can still be treated as business income if letting out of the premises itself is the business of the assessee.
2. It is to be seen as to whether the activity in question was in the nature of business by which it could be said that income received by the appellant was to be treated as income from the business."
3. The Chennai bench of the Income Tax Appellate Tribunal (ITAT) has held that the rental income received through sub-leasing of the property shall be treated as the business income of the assessee as the same was the business of the assessee-Company.