

Relief to Inter Globe Aviation: ITAT deletes Disallowance on Lease Rental Payments to tune of Rs. 366.32 Cr

Fact of the Case

1. The assessee, Inter Globe Aviation is a company engaged in the business of operating Airlines.
2. It filed its return of income declaring income of Rs. 2,32,97,58,440/-. The book profit was also shown u/s 115JB of the Act at Rs. 967,73,83,147/-.
3. The case of the assessee was selected for scrutiny and order u/s 143(3) of the Act was passed on 06.12.2016 determining the total income of the assessee at Rs. 16,54,80,19,120/-. The AO made the adjustments to the return of income of the assessee at Rs. 232,97,58,440/-.
4. The assessee was aggrieved with the order of the AO preferred an appeal before the CIT(A).
5. She further held that the same also could not be taxed as commission income. She further held that as IEA credits are held to be capital in nature then lease rental paid by the assessee is also to be considered as capital expenditure.
6. The assessee has amortized a sum of Rs. 366,32,13,778/- against the lease rentals. She confirmed that the lease rent as capital expenditure. Thus, disallowance of Rs. 366,32,13,778/- was confirmed.
7. With respect to the disallowance of supplementary lease rent for non deduction of tax at source disallowed u/s 40(a)(i) of the act of Rs. 535,16,67,041/-, She followed the decision of the Hon'ble jurisdictional High Court in assessee's own case for earlier Assessment Year wherein, it has been held that payment of supplementary lease rent under lease agreement entered into before 31.03.2007 is exempt u/s 10(15A)

Decision of the Case

1. The coram of Judicial Member, Suchita Kamble and Accountant Member Prashant Maharishi ruled that the Lease Agreement defines "Rent" as "means collectively Base Rent and Supplementary Rent".
2. Therefore, respectfully following the decision of Tribunal for A.Y. 2007- 2008 which has also been followed in subsequent years, we hold that payment of Supplementary Rent of Rs.61,81,04,551/- is exempt from tax in hands of Lessors as per provisions of section 10(15A) and hence, disallowance under section 40(a)(i) is not called for.