

Notional Rent not applicable on a flat which is inhabitable and in a ruinous condition: ITAT

Fact of the Case

- In the present problem the assessee is an inhabitant of Navi Mumbai and is flat owner of Navi Mumbai.
- The Assessing Officer while concluding the assessment proceedings against the assessee applied municipal ratable value on the annual letting value of the flat. However, the assessee argued that there was material filed to demonstrate that the flat was not fit for occupation and certificates from authorities were filed for evidence of the same.
- On first appeal, the Commissioner of Income Tax (Appeals) held that when the concerned house property was not in a position to be let out there cannot be any deemed notional rent for the same.

Decision of the Case

- The bench comprising Judicial Member Pavan Kumar Gadale and Accountant Member Shamim Yahya observed that “it is amply clear that the order of Ld.CIT(A) is without any application of mind. There is no discussion whatsoever as to where the act mandates that if a flat is inhabitable and in a ruinous condition notional rent should be computed thereon and imposed upon the assessee.”
- Relying on the decision of Bombay High Court , the bench allowed the plea of the assessee and held that “we fail to understand as to why the Ld.CIT(A) has chosen again to exhibit his scant regard to the judicial discipline and not follow the Hon’ble Bombay High Court decision in the case of Tiptop topography.
- It is again anguished and wonder why the Ld.CIT(A) chose to ignore the Hon’ble Bombay High Court decision. Be as it may, we direct that following the precedent from Hon’ble Bombay High Court as above the rental value should be limited to the municipal ratable value in this regard.”
- The Income Tax Appellate Tribunal (ITAT), Mumbai bench has held that notional rent shall not be applicable on a flat, which is inhabitable and in a ruinous condition following the Bombay High Court judgment in the case of Tiptop topography.