

Sum received by assessee from letting out of office to fulfil financial needs of business is business receipt

Summary – The Gujarat of High Court in a recent case of Vallabh Glass Works Ltd., (the Assessee) held that sum received by assessee from letting out of office to fulfill financial needs of business is business receipt

ORDER

- Present appeal has been preferred by the appellant-revenue challenging the impugned judgment and order passed by the learned ITAT for the assessment year 1996-97, by which, the Appellate Tribunal has dismissed the said appeal preferred by the revenue by confirming the order passed by the CIT(A) treating the amount of Rs.41,61,000/-received by the assessee as leave and license fees in respect of Bombay Office.
- That during the assessment year, assessee received Rs.41,61,000/- by way of leave and license fees in respect of Bombay office and office premises at Atlanta, 5th Floor, which was given on lease as leave and license basis to one M/s. Itochu Corporation initially for a period of five years with a provision of extending term for further period of five years. The assessee claimed the said income as income from the business. However, Assessing Officer did not accept the same and treating the said income as income from the house property.
- Feeling aggrieved and dissatisfied with the order passed by the Assessing Officer treating the aforesaid income of Rs.41,61,000/- as income from house property, the assessee preferred appeal before the CIT(A). It was the case on behalf of the assessee that assessee was in dire financial stress and had to explore means of raising revenue to save itself from the losses which were mounting year to year. It was submitted that in fact the assessee was declared sick company under the BIFR and ICICI Bank was appointed as operating agency under the rehabilitation scheme. Therefore, it was decided by the Board of Directors to exploit the Bombay office commercially so as to generate revenue. Therefore, it was requested to treat the aforesaid income of Rs.41,61,000/- as income from the business. Considering the aforesaid facts and circumstances of the case and relying upon the decision of the Hon'ble Supreme Court in the case of *CIT v. Vikram Cotton Mills* [\[1988\] 169 ITR 597/36 Taxman 1 \(SC\)](#), CIT(A) held the aforesaid income of Rs.41,61,000/- as income from business.
- The Appellate Tribunal has also dismissed the said appeal preferred by the revenue and confirmed the order passed by the CIT(A) treating the aforesaid income of Rs.41,61,000/- as business income.

- Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the ITAT, the revenue has preferred the present appeal.
- After having heard the counsel for the revenue and considered the impugned judgment and order passed by the learned ITAT as well as order passed by the CIT(A) treating the aforesaid amount of Rs.41,61,000/- derived by the assessee as leave and license fees on giving lease of Bombay Office to M/s. Itochu Corporation as income from business. Considering the fact that at the relevant time when the property was given on lease to M/s. Itochu Corporation on lease and license basis initially for a period of 5 years, which was extended for a further period of 5 years, the company was before the BIFR and was declared as sick industrial unit and even the rehabilitation scheme was also under preparation and the ICICI Bank was appointed as operating agency and Bombay office of the assessee company was given on lease to exploit the commercial assets for the purpose of its business, it cannot be said that ITAT and / or CIT(A) have committed any error and / or illegality in treating the income of Rs.41,61,000/- as income from business.
- The issue involved in the present appeal is directly covered by the decision of the Hon'ble Supreme Court in the case of *Vikram Cotton Mills Ltd. (supra)*. No illegality has been committed by the ITAT and CIT(A) in placing the reliance upon the decision of the Hon'ble Supreme Court in the case of *Vikram Cotton Mills Ltd. (supra)*. Under the circumstances, we see no reason to interfere with the judgment and order passed by the learned ITAT. No substantial question of law arise. Hence, present appeal deserves to be dismissed and is accordingly dismissed.