

Composite rental income from letting out building together with fixtures was taxable as income from other sources

Summary – The High Court of Delhi in a recent case of Jay Metal Industries (P.) Ltd., (the Assessee) held that where letting of building together with fixtures, furnitures etc. was a composite one, rental income was to be assessed as income from other sources

Facts

- The assessee company let out the premises comprising of basement, ground floor, first floor and second floor to one 'FVPL' on monthly rent with the amenities like wooden cabins and wooden empanelling, central air conditioning, adequate power back up through a 200 KVA diesel generator. The assessee offered income from letting out said premises as 'income from house property'. Accordingly, the assessee also claimed deduction under section 24(a).
- The Assessing Officer held that the rental income declared by the assessee should be assessed as per the provisions of section 56(2)(iii) as income from other sources. Consequently, the amount claimed for deduction under section 24(a) was disallowed and added back to the income of the assessee.
- On appeal, the Commissioner (Appeals) held that the assessee as the owner of the building was exploiting the property by letting out the same and realizing income by way of rent. Therefore, such rental income was liable to be assessed under the head of 'income from house property'. Accordingly, the Assessing Officer was directed to allow deduction under section 24(a).
- On further appeal, the Tribunal held that the income from letting had to be treated as composite rental income and, therefore, the claim of deduction under section 24(a) was inadmissible. It was noted that the amenities of wooden cabins and empanelment, central air-conditioning facility supported by power backup through generator set was inseparable from the letting of the building and, thus, the income from such letting of building would be chargeable to income tax under the head 'income from other sources'. Thus, the order of the Assessing Officer was restored and the order of the Commissioner (Appeals) was set aside.
- In instant appeal to the High Court, the assessee submitted that the Lease Deed was only for lease of the building and did not provide for any separate rent for the amenities. The predominant purpose was to lease out the building. The equipment and fixtures were incidental to and inseparable therefrom. Therefore, section 56(2)(iii) was not attracted.

Held

- In the present case, the preamble clauses of the lease deed make it plain that what was given on rent to the Lessee was not just the basement, ground floor, first floor and second floor of the building but also the fixtures, furniture which included the air-conditioning and power backup

through a 200 KVA diesel generator set. In particular, clause 2(d) makes it clear that the Lessor had to hand over the office "with furniture & fixture, diesel generator and adequate air conditioners to the Lessee in good working condition."

- There can be no manner of doubt that the Lease Deed was a composite one and the rental receipts thereunder answered the description in section 56(2)(iii).
- In the present case, as already discussed, it is plain that letting is not merely of the building but a composite letting of both, the building as well as the equipment, furniture etc. and thereby section 56 (2) (iii) was attracted.
- However, the last plea made by the assessee is that in that event the entire income from the letting is treated as 'income from *source* sources', it cannot be deprived of the corresponding deduction in terms of section 57(iii). The revenue too has not disputed the fact that the assessee has not claimed depreciation.
- Accordingly, it is directed that while giving the appeal effect, the Assessing Officer will grant the assessee the benefit of section 57.