

Partially let out commercial property eligible for sec. 24 deduction

Summary – The Mumbai ITAT in a recent case of Alpex International (P.) Ltd., (the Assessee) held that partially let out commercial property would be eligible for sec. 24 deduction.

Facts

- The assessee filed return showing income under the head income from house property and claimed deduction under section 24(b) on account of interest paid on borrowed funds.
- The Assessing Officer rejected assessee's claim on the ground that the assessee had not proved utilization of fund for construction of property and deduction could not be allowed on the basis of area let out.
- The Commissioner (Appeals), however, allowed assessee's claim.
- On revenue's appeal:

Held

- The ITAT held that as seen from assessment order, the Assessing Officer has disallowed the deduction claimed under section 24(b) of the Act, basically for the reason that the assessee has not proved utilization of fund for construction of property. The said reason is unacceptable since the loan was sanctioned for construction of the entire building.
- Secondly, the ITAT held that when part of the building is used for commercial purpose and the rest of it is let out, the interest expenditure on the loan has to be apportioned between the two areas and the Assessing Officer has not pointed out any major deficiency in allocation of interest expenditure between the area used for commercial purpose and area let out. The allegation of the Assessing Officer that the assessee at its own will changes the area let out is on a mere presumption. There is no material on record to indicate that the Assessing Officer had carried out any specific enquiry to disprove assessee's claim regarding the area let out.
- Lastly, the ITAT held that when the allocation of interest expenditure in identical manner has been accepted by the Assessing Officer in past assessment years, there is no valid reason for not accepting it in the impugned assessment year when the facts are identical. For the aforesaid reasons, the decision of the Commissioner (Appeals) on the issue is upheld.