

## **Rent from letting out of unused business premises is 'income from house property' and not business receipt**

**Summary – The High Court of Karnataka in a recent case of Tektronics Engineering Development (India) (P.) Ltd., (the Assessee) held that rental income from unused portion of business premises owned by assessee engaged in software business was income from house property.**

### **Facts**

- The assessee was in business of development of computer software.
- The assessee had shown a sum of Rs. 28,11,600 received as rent as part of income from business and claimed depreciation in respect of house property.
- The Assessing Officer held that said income would be treated as income from house property. He disallowed depreciation in respect of said house property.
- On appeal, the Commissioner (Appeals) held that the income arose from exploitation of the commercial assets of the assessee. Thus, it should be assessed under head 'business' and, further, depreciation would be allowed in respect of building.
- On appeal, the Tribunal held that income of Rs. 28,11,600 received by the assessee had to be assessed as income from house property and remanded the matter back to Assessing Authority to give deduction treating the said income as a rental income.
- On the assessee's appeal to the High Court:

### **Held**

- The assessee is not in the business of constructing buildings and letting out the same. They are also not in the business of furnishing these buildings and letting out the same. The only business of the assessee is the development of software. The scheduled premises is owned by them. When they do not need the schedule premises they let out the premises, so that it could earn some rental income. Therefore, the Tribunal rightly held that it is not a business income but it is an 'income from the house rental'.
- The contention that even if it is not a business income, it has to be treated as 'income from other sources' is without any substance because, the facts of this case, recitals of the lease deed, the schedule to the Lease Deed and the property which is leased makes it very clear that the income derived from them by way of rental income cannot be construed as 'income from other sources', but as the 'income from house property' only.
- As rightly pointed by the Tribunal, the assessee is entitled to the benefit of certain deductions in respect of rental income from house property that has not been extended by the assessing authority. Therefore, the Tribunal was justified in remanding the matter to the assessing authority to give the benefit of said deductions after treating the income as 'income from house property'.