

## **License fee paid by Hotel for using courtyard of a palace for its business was allowable as revenue expenditure**

**Summary – The High Court of Karnataka in a recent case of ITC Hotels., (the Assessee) held that licence fee for using courtyard of a palace while running hotel in the palace is an allowable revenue expenditure.**

### **Facts**

- The assessee hotel as per a MOU with a palace trust, had acquired a right to use the Courtyard of palace for their business of hotel being run in the palace. The assessee paid Rs. 10 lakhs as licence fee.
- According to the revenue, the expenditure incurred by the assessee for the use of Courtyard was the capital field and it could not be said to have been incurred to facilitate trading operation of the assessee.
- The appeal was dismissed by the first appellate authority.
- The second appeal, the Tribunal passed order in favour of the assessee.
- On appeal:

### **Held**

- It is clear that if the advantage consists merely in facilitating the assessee's trading operations or enabling the management and conduct of the assessee's business to be carried on more efficiently or running hotel business more profitably while leaving the fixed capital untouched, the expenditure would be on revenue account, even though the advantage may endure for an indefinite future.
- In the instant case, except the right to use the courtyard, no other rights were created in favour of assessee. In other words, the amount paid to the Trust was for the use of the courtyard under the MOU for an indefinite future, and therefore, it would be on revenue account. In other words merely because the advantage may endure for an indefinite future would not mean that the expenditure would be on capital account and not revenue. The advance of Rs. 10,00,000, in the instant case, consists merely in facilitating the assessee's business operations, enabling the management to conduct their hotel business more efficiently and profitably hence, the issue was to be answered in favour of the assessee.