

Rental income from property equipped with specialized machinery is house property income and not business income

Summary – The High Court of Allahabad in a recent case of Hotel Arti Delux (P.) Ltd., (the Assessee) held that income derived by assessee from leasing out of its building simplicitor was because of ownership of building and not from personal exertion; hence it was an income from house property and not a business income

Facts

- The main object of the assessee company as per its memorandum and articles of association was to carry on the business of hotel, restaurant, cafe, etc.
- The assessee-company had constructed a building to run a hotel but when it was found that running of hotel was not viable, the assessee decided to let it out to a nursing home.
- For the relevant assessment year, the assessee-company claimed that its income was derived by leasing out the building, plant, machineries, generators, lifts and other amenities and such income was income from profits and gains of business of profession.
- The Assessing Officer held that income was to be assessed under the head income from other sources.
- On appeal, the Commissioner (Appeals) held that income from lease was liable to be assessed under the head income from house property.
- On second appeal, one member of the Tribunal upheld the order of the Commissioner (Appeals) holding that the income of the assessee was an income from house property, but the other member dissented holding that such income is a business income. On account of difference of opinion between the two members, the matter was referred to the third member of the Tribunal, who opined that the income of the assessee should be assessed as income from house property. In view of the opinion of the third member, the appeal of the assessee was dismissed holding its income as income from house property.
- On appeal to High Court:

Held

- From the recital of the lease deed it is evident that only the building was leased out along with a lift, tubewell and electrical fittings. These cannot be treated as plant and machinery but would be treated as amenities, which are necessary for the use of any building.
- The assessee had not placed any material on record to show that the building had peculiar amenities with which the building could be treated as a 'plant' and not a building simplicitor. No material has been brought on record to indicate that the building had peculiar amenities, which could be commercially exploited such as facilities of sterilization of surgical instruments and

bandages or an operation theatre. The Tribunal has given a categorical finding of fact that the building which was leased out by the assessee was nothing else but a building simplicitor and was not a building, which was equipped with specialized plant and machinery. This being a finding of fact, such findings cannot be interfered with, especially when nothing has been brought on record to indicate that the said finding was perverse.

- It is also apparent that the assessee is not running the business of a hospital and has only let out the building. Thus, the income derived by the assessee was from the ownership of the building and not from the personal exertion, which is necessary to treat the income as a business income.
- In the light of the aforesaid, the income derived by the assessee from the leasing out of its property was an income from house property and not a business income. Consequently, the appeal has no merit and is dismissed. The questions of law are answered accordingly.