

Lease agreement with own family shouldn't be considered when it is made for tax evasion: Apex Court

Summary – The SUPREME COURT OF INDIA in a recent case of Maneklal Agarwal, (the Assessee) held that where Income Tax Authorities found that assessee had leased out his property to his own family members, who in turn had sub-leased it to outsiders on much higher rentals, however income in fact belonged to assessee, Assessing Authorities could have taxed said income at hands of assessee

Facts

- The assessee had leased out his property to his own family members, who in turn had sub-leased it to outsiders on much higher rentals.
- Assessment in case of assessee was completed by treating the rent received by the lessees of the assessee as rental income of the assessee.
- On appeal, the Commissioner(Appeals) upheld the assessment order passed by the Deputy Commissioner of Income Tax on the ground that it was in accordance with section 23(1).
- On second appeal, the Tribunal partly allowed the appeal of the assessee.
- On further appeal the High Court held that the Tribunal had recorded the finding of fact that the nature of leases executed by the assessee being bogus and structures being raised by the assessee himself, it would be proper to include the net rental value to the income of the assessee.
- On appeal to the Supreme Court:

Held

- Going by the nature of transaction, a clear finding of fact is arrived at by the authorities below that a devise was made by the appellant to show lesser income at his hand and because of this reason only he purportedly entered into a lease agreement with his wife, son and daughter-in-law in respect of the aforesaid property of which he is paying by letting them at a very nominal rates and allowing his family members to sub-let the same at much higher rents. In these circumstances, these findings of fact cannot be interfered with in the present appeals. Once it is found that the income in fact belongs to the appellant he was the right person for taxing the said income, it was permissible for the Income Tax Authorities to tax the said income at the hands of the assessee.