

Rental income from letting out factory premises of discontinued business is taxable as income from other source

Summary – The Bangalore ITAT in a recent case of T.R. Mills (P.) Ltd., (the Assessee) held that where business asset including all fittings and fixtures was let out but after discontinuing business activity of textile mill, rental income could not be treated as income from house property and same would be assessed as income from other sources

Facts

- The assessee discontinued the business of textile mills and leased out the factory premises. The income from leasing out of the factory premises was offered by the assessee as business income.
- The Assessing Officer assessed the rental income as income from house property.
- The assessee on appeal before the Commissioner (Appeals) submitted that the object of the assessee in the memorandum of association includes leased out of property and therefore, the income arises would be business income.
- The Commissioner (Appeals) confirmed the action of the Assessing Officer in assessing the said income as income from house property.
- On appeal:

Held

- There is no dispute that the assessee discontinued its business of textile mill and let out the factory premises to professional marketing group, frontline marketing and Indras agency. It is also not disputed that leasing of plant and machinery, godown, and building is one of the business objects of the assessee-company as per the article of association and memorandum of association. It is not the case of the assessee that it has temporarily closed the business activity due to some lull, but the business of textile mill has been permanently discontinued. Therefore, the business asset of the assessee-company were let out different persons. Since the assessee has received the rentals from letting out of not the building structure only but it is a factory premises including all fittings and fixtures. Therefore, in the facts and circumstances of the case, when the business asset of the assessee is let out but after discontinuing the business activity of the textile mill then the rental income cannot be treated as income from house property however the same would be assessed as income from other sources. Since the factory building was neither acquired nor held by the assessee for the purpose of letting out but it was held by the assessee for its textile business which was discontinued then for the claim of business income cannot be accepted. Accordingly, in view of the above discussion, the Assessing Officer is directed to assess the rental income as income from other

sources and allow the deductions as per section 57 as well as the expenditure on maintenance of the company in existence.