



IN THE INCOME TAX APPELLATE TRIBUNAL “E”, BENCH MUMBAI

BEFORE SHRI R.C.SHARMA, AM

&

SHRI PAWAN SINGH, JM

ITA No.6869/Mum/2014

(Assessment Year :2008-09)

M/s. Shah Febtex 102, Neelkant Saalan Hingwala Lane, Ghatkopar (W), Mumbai – 400 086	Vs.	Commissioner of Income Tax (A)-7, Mumbai
PAN/GIR No. ABGFS8413E		
Appellant)	..	Respondent)

Assessee by	Shri Nilesh Joshi
Revenue by	Shri V. Justin
Date of Hearing	18/10/2017
Date of Pronouncement	12/01/2018

आदेश / O R D E R

PER R.C.SHARMA (A.M):

This is an appeal filed by the assessee against the order of CIT(A)-7, Mumbai dated 30/07/2014 for A.Y.2008-09 in the matter of order passed u/s.143(3) of the IT Act.

2. The only grievance of assessee relates to treatment of income offered under the head ‘income from house property’ as ‘income from other sources’.
3. Rival contentions have been heard and record perused.
4. Facts in brief are that assessee is a partnership firm. The partners of the firm are holding the premises Nos.4,217,218, Vasan Udhog

Bhavan, Tulsi Pipe Road, Lower Parel, Mumbai – 400 013, and all the partners have given their consent to allow the assessee firm to lease or sublease the above mentioned premises to third persons. During the year assessee firm has let out the property and earned rental income therefrom. The rental income was offered under the head 'income from house property'. However, AO treated it as 'income from other sources'.

5. Action of the AO was affirmed by the CIT(A), against which assessee is in further appeal before us.

6. We have considered rival contentions and carefully gone through the orders of the authorities below and found from record that assessee firm has let out property at a fixed rent. Even though the partners of the firm were owners of the property, they have allowed the firm to let out the same. Rental income so earned by the firm is correctly offered under the head 'income from house property'. Since the assessee firm was mainly engaged in the business of manufacturing and trading of cloth will not disentitle it for giving its property on rent. Accordingly, the rental income so received by the assessee is correctly offered under the head 'income from house property'. Accordingly, AO is directed to treat the income as 'income from house property' instead of 'income from other sources'.

7. In the result appeal of the assessee is allowed.

Order pronounced in the open court on this 12/01/2018

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 12/01/2018
Karuna Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai