

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI
BEFORE SHRI PRASHANT MAHARSHI (ACCOUNTANT MEMBER)
AND
SMT. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA Nos.614 & 615/Mum/2020
(Assessment Years : 2015-16 & 2014-15)

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| Promas Engineers Pvt Ltd Plot No.R-967, Promas House TTC Industrial Area, MIDC Rabale Navi Mumbai-400 701 PAN : AADP5378C | vs | Asst. Commissioner of Income Tax Range 15(2)(2), Mumbai |
| APPLICANT | | RESPONDENT |

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|---------------------------|-----------------------------------|
| Assessee represented by | None |
| Department represented by | Shri Nihal Ranjan Samal – Sr.A.R. |

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| Date of hearing | 09-06-2022 |
| Date of pronouncement | 22-07-2022 |

ORDER

Per : Kavitha Rajagopal (JM):

The captioned appeals have been filed by the assessee as against the independent orders of the Commissioner of Income-tax (Appeals)-24, Mumbai, both dated 25/10/2019 pertaining to assessment years 2014-15 & 2015-16.

2. The solitary issue involved in both these appeals is that the lower authorities have erred in holding the rental income under "Income from other sources" which ought to have been as Rental Income under "Income from house

property” thereby disallowing the deduction under section 24 being standard deduction at 30% and treating the same as “Income from other sources”.

3. In spite of several opportunities, there was no representation from the assessee and therefore, we proceeded to hear the appeals on merits, based on materials available on records and the submissions of the Ld.DR, Shri Nihar Ranjan Samal.

4. The brief facts are that the assessee company is engaged in the business of manufacturing and designing of process equipments for food, pharma and other industries. The assessee company filed its returns of income declaring total income at Rs.62,06,497/- and Rs.70,89,900/- for assessment years 2014-15 & 2015-16 on 28/11/2014 and 30/09/2015, respectively. The assessee’s case was selected for scrutiny and assessment order was passed under section 143(3) determining total income at Rs.73,17,490/- and Rs.93,16,910/-, respectively for the impugned years wherein the Assessing Officer made additions on various grounds. Aggrieved by the said order, the assessee was in appeal before the Ld.CIT(A), who deleted the additions except the addition on which the assessee has preferred these appeals before us.

5. During the appellate proceedings, the Ld.DR had stated that the Assessing Officer has treated the rent received by the assessee from leasing part of open plot of land which is adjacent to ‘factory premises’, as “Income from other sources” as opposed to the assessee’s contention that it was in the nature of house property income and not “Income from other sources”. The Ld.DR relied on the orders of the authorities below.

6. Having perused the materials on record and the submissions of the Ld.DR, it is observed that the assessee has rented out plot of land which is adjacent to

factory premises, which plot has been demarcated as "Plot R-67B to M/s Chemac Equipments Pvt Ltd. The directors of Chemac Equipments Pvt Ltd are also directors of the assessee company. The Assessing Officer has alleged that the plot of land which has been rented out has no construction in it and has only compound walls which, according to the Assessing Officer, has incurred very small amount of expenses. Further to this, he has stated that since the plot of land on which the assessee has derived rental income has no construction and does not satisfy the conditions which are required to treat the same as "Income from house property", the Assessing Officer proceeded to treat the rental income received by the assessee as "Income from other sources" and disallowed the standard deduction of Rs.3,60,000/-. The assessee has failed to substantiate its claim in treating the rental income as "House property income" as opposed to "Income from other sources".

7. The lower authorities have rightly denied the claim of depreciation on the portion of factory building used by the tenant. Further, the depreciation on the construction of compound wall was disallowed owing to the reason that the cost of construction of compound wall was very less. Further to this, we place reliance on the decision of the Hon'ble High Court of Punjab & Haryana Govardhandas & Sons vs CIT, Jalandhar (2007) 158 Taxmann 465 (P&H) which had laid emphasis that the rental income received from letting out of land without any building in it, will not come under the purview of "Income from house property".

8. In view of the above, we do not find any infirmity in the findings of the lower authorities. Resultantly, we uphold the order of the Ld.CIT(A) and the appeals of the assessee are dismissed.

9. In the result, appeals filed by the assessee are dismissed.

Order pronounced in the open court on 22/07/2022.

Sd/-

sd/-

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| (PRASHANT MAHARSHI) | (KAVITHA RAJAGOPAL) |
| ACCOUNTANT MEMBER | JUDICIAL MEMBER |

Mumbai, Dt : 22/07/2022

Pavanan

Copy to :

1. The Applicant
2. The Respondent
3. The CIT(A)
4. The CIT
5. The DR, C-Bench

(True copy)

By order

Asst.Registrar / Sr.PS, ITAT, Mumbai Benches