

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER  
&  
SMT KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

**ITA No.7284/Mum/2014  
(Assessment Year :2010-11)**

DCIT-14(2)(1) 453, Aayakar Bhavan 4 <sup>th</sup> Floor, M.K.Marg Mumbai – 400 020	Vs.	M/s. Infrastructure Leasing & Financial Services Ltd The II & FS Financial Centre, Plot No.C-22 G Block, Bandra Kurla Complex, Bandra East Mumbai - 51
<b>PAN/GIR No.AAAC10989F</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	None
Revenue by	Shri Kishor Dhule
<b>Date of Hearing</b>	<b>10/11/2022</b>
<b>Date of Pronouncement</b>	<b>28/ 11/2022</b>

**आदेश / O R D E R**

**PER M. BALAGANESH (A.M):**

This appeal in ITA No. 7284/Mum/2014 for A.Y.2010-11 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-21, Mumbai in appeal No.CIT(A)-21/IT/143/2013-14 dated 29/09/2014 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) by the Id. Dy. Commissioner of Income Tax-10(1), Mumbai (hereinafter referred to as Id. AO).

2. This appeal was originally disposed of in ITA No.7284/Mum/2014 vide order dated 30/12/2019. Later, the appeal was recalled for the limited purpose of adjudication of ground No.1 raised by the Revenue in MA No.306/Mum/2020 dated 13/07/2022. The ground No.1 raised by the Revenue is as under:-

*"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition to "Income from house property" Of Rs. 30,96,000/- without appreciating the fact that this is assessable as income from house property."*

3. None appeared on behalf of the assessee. Despite issuance of several notices to the assessee, there is no representation from the side of the assessee. Hence, we proceed to dispose of this appeal by hearing the Id. DR and based on materials available on record. The assessee is a public limited company duly registered with RBI as non banking financial services. The assessee is engaged in the business of facilitating commercialization of infrastructure projects and investment and lending to group entities. Main shareholders of this company are LIC, SBI, Central Bank of India, HDFC and IL&FS Welfare Trust & Others and other sovereign funds. The Id. AO had determined the annual lettable value of the rented property at Rs.30,96,000/- on notional basis. The assessee submitted before the Id. CIT(A) as under:-

*"Ground no 2 deals with the determination of annual ratable value of the residential value of Rs 30,96,000/-. During Assessment proceedings, AO asked to give the working. Without prejudice to our stand that only actual rent should be taxable, we had provided the amount to the AO. The Assessee has given only 1 property on rent on which income is atved and the same is offered for tax under the head "income from house property". None of the other properties was given on rent during the year. These properties are kept for the purpose of business. We submit that the actual rental only should be taxed and not notional rentals. We respectfully state that the CIT(A) has decided on this issue in the assessee's own case for AY 2005-06 to AY 2009-*

*10 favourably (Copy of the order of AY 2009-10 enclosed for reference- refer Page no 132 & 133 of the paperbook Para 2 of the Order). Based on the same, we request you to delete these disallowances made by the AO."*

3.1. The Id. CIT(A) by placing reliance on the orders passed by his predecessor for A.Yrs.2005-06 to 2009-10 has deleted the said addition and granted relief to the assessee. When a query was raised by the Bench as to whether this issue was agitated before the Tribunal by the Revenue in earlier years, the Id. DR submitted that for A.Yrs. 2004-05 to 2009-10, some addition was made and deleted by the Id. CIT(A) and further, no appeal was preferred by the Revenue before this Tribunal. Hence, we find that the Revenue had accepted to the order of the Id. CIT(A) in earlier years by not preferring further appeal before us. There is absolutely no reason to take a divergent stand by the Revenue during this year alone without bringing on record any factual differences and fresh developments that had crept up in the case of the assessee during the year under consideration. Hence, by following the decision of the Hon'ble Supreme Court in the case of Radhasoami Satsang v. Commissioner of Income-tax reported in 193 ITR 321 wherein it has been held as under:-

*13. We are aware of the fact that strictly speaking res judicata does not apply to income-tax proceedings. Again, each assessment year being a unit, what is decided in one year may not apply in the following year but where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year.*

*14. On these reasonings in the absence of any material change justifying the revenue to take a different view of the matter—and if there was no change it was in support of the assessee—we do not think the question should have been reopened and contrary to what had been decided by the Commissioner in the earlier proceedings, a different and contradictory stand should have been taken. We are, therefore, of the view that these appeals should be allowed and the question should be answered in the affirmative, namely, that the Tribunal was justified in holding that the income derived by the Radhasoami Satsang was entitled to exemption under sections 11 and 12.*

3.2. Hence, following the principles of consistency, we do not find any infirmity in the order of the Id. CIT(A) granting relief to the assessee in this regard. Hence, the ground No.1 raised by the Revenue is dismissed. This order has to be read together with original Tribunal order dated 30/12/2019 and MA Order dated 13/07/2022.

**4. In the result, appeal of the Revenue in respect of ground No.1 is dismissed.**

Order pronounced on 28/11/2022 by way of proper mentioning in the notice board.

**Sd/-**  
**(KAVITHA RAJAGOPAL)**  
**JUDICIAL MEMBER**

Mumbai; Dated 28/11/2022  
KARUNA, *sr.ps*

**Sd/-**  
**(M.BALAGANESH)**  
**ACCOUNTANT MEMBER**

**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.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
ITAT, Mumbai