

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH : BANGALORE**

**BEFORE SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER
and
SHRI VIJAY PAL RAO, JUDICIAL MEMBER**

ITA No.1062/Bang/2015
(Assessment year: 2011-12)

Asst. Commissioner of Income-tax,
Circle 3(1)(1),
Bangalore. ... Appellant

Vs.

M/s.Toyota Techno Park India Pvt. Ltd.,
Plot No.20, Bidadi Industrial Area,
Ramanagara Taluk,
Bangalore-562109. ... Respondent
PAN: AAAC7456J

Appellant by: Shri Sunil Kumar Agarwala, JCIT(DR)
Respondent by: Shri P.S.Ramamurthy, Employee of
assessee company.

Date of hearing : 26/11/2015
Date of pronouncement: 04/12/2015

O R D E R

Per ABRAHAM P GEORGE, AM:

In this appeal filed by the revenue, grievance is that the CIT(A) had given relief to the assessee relying on a decision of the co-ordinate bench. As per the revenue, it had filed further appeal before the Hon'ble jurisdictional High Court. The issue giving rise in this appeal is that assessee had declared its income including lease rentals from operating an industrial park as business income, which was held by AO as income from house property. As per the AO assessee was only providing infrastructure facilities to occupants of the premises but this was

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distinct from the rental income. Lease rental were considered as 'income from house property' and rentals from plant and machinery was assessed under the head 'income from other sources'.

2. When the matter reached the CIT(A), assessee pointed out that the jurisdictional High Court in its own case in ITA No.207/2008 dated 18/03/2014 had decided the issue in favour of assessee for assessment year 2002-03. CIT(A), considering the judgment of the Hon'ble jurisdictional High Court in the assessee's own case, which in turn had followed an earlier judgment in the case of CIT vs. Velankani Information Systems (P) Ltd., (218 Taxman 88), held that where assessee was in the business, putting up commercial building and letting out such building with furniture as a part of its business, then the income thereon would not come under the head 'income from house property'. CIT(A) held that the income of assessee was to be considered under the head 'income from business'.

3. From the grounds taken by the department, what we find is that they are under a wrong impression that CIT(A) had followed the Tribunal order in allowing the appeal of assessee. However, what we find is that CIT(A) had relied on the judgment of the jurisdictional High Court in ITA No.207/2008 dated 18/03/2014 in assessee's own case while deciding the issue in favour of the assessee. Thus the ground taken by the revenue by itself is incorrect. No good reason has been shown by the

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revenue for interfering with the order of CIT(A) since CIT(A) had decided the issue in accordance with the judgments of Hon'ble jurisdictional High Court.

4. We also find that assessee has placed on record judgment of the jurisdictional High Court in its own case in ITA No.207/2008 dated 18/03/2014 for assessment year 2002-03 and in 74/2014 dated 01/04/2014 for assessment year 2010-11 in which the issue was decided in favour of the assessee.

5. In the result, the appeal of the revenue stands dismissed.

Pronounced in the open court on 04th December, 2015.

sd/-
(Vijay Pal Rao)
JUDICIAL MEMBER
srinivasulu,sps

sd/-
(Abraham P George)
ACCOUNTANT MEMBER

Copy to:

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

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore