

# Income from leasing of warehouse taxable as income from house property – ‘object clause not relevant’

November 20, 2018

## In brief

In a recent decision<sup>1</sup>, the Delhi bench of the Income-tax Appellate Tribunal (Tribunal) held that income from leasing of warehouse has to be assessed under the head “income from house property” and not as “income from business or profession”. The reliance placed by the taxpayer on the clauses in the memorandum of association (MoA) holds no force, and the dominant object of the rent agreement was only to enjoy rental income.

## In detail

### Facts

- The taxpayer, a private limited company, was primarily engaged in the business of warehousing, transporting and carriage of goods, and providing storage and protection of goods.
- The taxpayer purchased a warehouse which was already put on rent. The taxpayer declared the rental income as business income and claimed expenses under the heads finance cost, depreciation and other expenses.
- The taxpayer relied on the Supreme Court’s (SC) decisions in the case of Chennai Properties and Investments Limited<sup>2</sup> and

Ravala Corporation Private Limited<sup>3</sup>. According to the taxpayer the aforesaid decisions held that rental income needs to be regarded as business income, in view of the main object clause of the company’s MoA.

- The tax officer (TO), during assessment considered the various clauses of the lease deed and noted that its dominant object was only to enjoy rental income.
- The TO concluded that the income received from leasing of warehouse had to be assessed as “income from house property”. Further, the TO disallowed the business expenses claimed by the taxpayer.
- The Commissioner of

Income-tax (Appeals) [CIT(A)] upheld the TO’s order.

### Issue before the Tribunal

Whether the income earned by the taxpayer by leasing the warehouse was taxable under the head “income from house property” or as “income from business or profession”?

### Taxpayer’s contention

- The taxpayer alleged that the TO while arriving at its conclusion ignored the fact that it was primarily engaged in the business of leasing of warehouses.
- The taxpayer’s MoA stated that the company was engaged in the business of warehousing, transporting and carriage of goods, and providing storage and,

<sup>1</sup> ITA No. 474/ Del/ 2018

<sup>2</sup> Chennai Properties & Investments Limited v. CIT [2015] 373 ITR 673 (SC)

<sup>3</sup> Rayala Corporation (P.) Limited v. ACIT [2016] 386 ITR 500 (SC)

protection of goods. Thus, the rental income from the warehouse should have been offered under the head “income from business or profession”.

- The taxpayer relied on the SC decisions in the case of Chennai Properties and Investments Limited<sup>2</sup> and Ravala Corporation Private Limited<sup>3</sup>. According to the taxpayer the aforementioned decisions were pronounced keeping in view the main object clause of the MoA of the company (carrying on the business of letting out property). Therefore, the rental income should have been treated as business income and not income from house property.

#### ***Revenue’s contention***

- The Revenue relied on the SC decision in case of Raj Dadarkar and Associates<sup>4</sup> to contend that rental income in the present case was assessable as “income from house property.”

#### ***Tribunal’s ruling***

- The Tribunal noted that after purchasing a warehouse that was already on rent, the nature of usage of warehouse and payments remained the same. Thus, the nature of transactions or income generated from the warehouse (post change in ownership) remained the same.
- The Tribunal relied on the SC decision in the case of Raj Dadarkar & Associates<sup>4</sup> to note that the issue of chargeability of rental income had been settled by the SC after considering its previous decisions that included Chennai Properties & Investments Limited<sup>2</sup> and Ravala Corporation (P.) Limited<sup>3</sup>.
- In light of the SC decision in the case of Raj Dadarkar & Associates<sup>4</sup> the Tribunal held that the basis taken by the taxpayer to claim rental income as business income by referring to the object clause

of the company’s MoA holds no force.

- The Tribunal upheld the CIT(A)’s order that income from leasing of warehouse was assessable as “income from house property”.

#### ***The takeaways***

- This decision reiterates the principle laid down by the SC that mere object clause of the MoA would not be the determining factor in concluding whether the income is to be treated as income from business.
- The issue of chargeability has to be examined on the facts of each case and the activities carried out thereto, which need to be supported by the legal documentation and business contracts thereto.

#### ***Let’s talk***

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

---

<sup>4</sup> Raj Dadarkar & Associates v. ACIT [2017] 394 ITR 592 (SC)

## Our Offices

### Ahmedabad

1701, 17th Floor, Shapath V,  
Opp. Karnavati Club,  
S G Highway,  
Ahmedabad – 380051  
Gujarat  
+91-79 3091 7000

### Hyderabad

Plot no. 77/A, 8-2-624/A/1, 4th  
Floor, Road No. 10, Banjara Hills,  
Hyderabad – 500034,  
Telangana  
+91-40 44246000

### Gurgaon

Building No. 10, Tower - C  
17th & 18th Floor,  
DLF Cyber City,  
Gurgaon – 122002  
Haryana  
+91-124 330 6000

### Bengaluru

6th Floor  
Millenia Tower 'D'  
1 & 2, Murphy Road, Ulsoor,  
Bengaluru – 560 008  
Karnataka  
+91-80 4079 7000

### Kolkata

56 & 57, Block DN.  
Ground Floor, A- Wing  
Sector - V, Salt Lake  
Kolkata - 700 091  
West Bengal  
+91-033 2357 9101/  
4400 1111

### Pune

7th Floor, Tower A - Wing 1,  
Business Bay, Airport Road,  
Yerwada, Pune – 411 006  
Maharashtra  
+91-20 4100 4444

### Chennai

8th Floor  
Prestige Palladium Bayan  
129-140 Greams Road  
Chennai – 600 006  
Tamil Nadu  
+91 44 4228 5000

### Mumbai

PwC House  
Plot No. 18A,  
Guru Nanak Road(Station Road),  
Bandra (West), Mumbai – 400 050  
Maharashtra  
+91-22 6689 1000

### For more information

Contact us at  
[pwctr.knowledgemanagement@in.pwc.com](mailto:pwctr.knowledgemanagement@in.pwc.com)

## About PwC

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 158 countries with more than 236,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at [www.pwc.com](http://www.pwc.com)

In India, PwC has offices in these cities: Ahmedabad, Bangalore, Chennai, Delhi NCR, Hyderabad, Jamshedpur, Kolkata, Mumbai and Pune. For more information about PwC India's service offerings, visit [www.pwc.com/in](http://www.pwc.com/in)

PwC refers to the PwC International network and/or one or more of its member firms, each of which is a separate, independent and distinct legal entity. Please see [www.pwc.com/structure](http://www.pwc.com/structure) for further details.

©2018 PwC. All rights reserved

## Follow us on:



For private circulation only

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PwCPL, its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. Without prior permission of PwCPL, this publication may not be quoted in whole or in part or otherwise referred to in any documents.

© 2018 PricewaterhouseCoopers Private Limited. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Private Limited (a limited liability company in India having Corporate Identity Number or CIN : U74140WB1983PTC036093), which is a member firm of PricewaterhouseCoopers International Limited (PwCIL), each member firm of which is a separate legal entity.