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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-01-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

TCA No. 87 of 2014

M/s.Tidel Park Ltd.,
4, Canal Bank Road,
Taramani,
Chennai -600 113.

..Appellant(s)

Vs

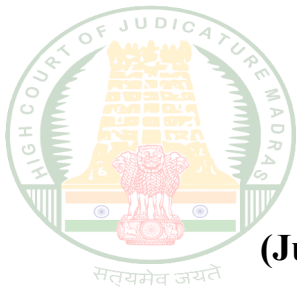
The Addl Commissioner of Income tax,
Company Range-III,
Chennai – 600034.

..Respondent(s)

Prayer: Appeal filed under Section 260 A of the Income Tax Act, 1961 against
ITA.No.1060/Mds/2010 dated 03.06.2013 for the assessment year 2007–2008
on the file of the Income Tax Appellate Tribunal, Madras “D” Bench.

For Appellant(s): Mr.R.Vijayaraghavan
for Mr.Subbaraya Aiyar

For Respondent(s): Dr.S.Sathiya Narayanan
Senior Standing Counsel



JUDGMENT

(Judgment of the Court was delivered by Dr.Anita Sumanth J.)

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Both Mr.R.Vijayaraghavan, learned counsel for the appellant and Dr.S.Sathiya Narayanan, learned Senior Standing Counsel for the respondent accede to the position that the issue arising in this matter is covered in favour of the assessee by an earlier order of this Court in *Commissioner of Income Tax, Chennai v. Tidel Park Ltd.*¹. The substantial questions of law admitted on 21.07.2014 are as follows:

‘1.Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the assessee is not entitled to deduction under Section 80IA in respect of income from Operation and Maintenance Charges, interest income, income from revenue sharing from lessee, other income, income from auditorium and rent others?’

2.Whether on the facts and circumstances of the case, the Tribunal was right in law in restricting the claim of deduction under Section 80IA when the entire income was derived only from developing, running and maintaining of Software Technology Park (STP) which was approved by the Department of Industrial Policy & Promotion and notified by the Central Board of Direct Taxes in terms of Section 80IA(4)(iii) of the Act read with Rule 18C of the Income Tax Rules and hence no part of the same can be excluded while computing the relief under Section 80IA?

3.Without prejudice, whether the Tribunal ought to have directed that if any receipts is to be excluded for computing the deduction under Section 80IA, then the corresponding expenditure and depreciation incurred for earning that receipt and deducted from the Profits and Gains of business should also

¹ 430 ITR 214



be excluded in computing profits and gains for determining relief under Section 80IA?’

2.The Tribunal has cited the decision of this Court in the case of *CIT v. Elnet Technologies Ltd.*², to the effect that income received from leasing out of the property with all amenities and facilities would constitute ‘income from business’ and not ‘income from house property’ or ‘other sources’.

3.In the case of *Tidel Park*³, this Court has referred to a decision in *Principal Commissioner of Income Tax v. Khivraj Motors (P.) Ltd.*⁴, and extracted the discussion in the said decision, which we may usefully do in the present matter as well, as below:

‘6. Though the learned counsel for the Revenue Mr.Karthik Ranganathan, sought to urge before us that the development of I.T. Park was not the main business activity of the Assessee company, he failed to establish his contention with the help of any relevant evidence, including the memorandum of association of the company or any other relevant documents.

7. On the contrary, we found from the discussion in the order of the Commissioner of Income-tax (Appeals) as well as the learned Tribunal that the Assessee has not only shown part of its income as income from other property, but has only allowed the claim of the Assessee to tax the income from the software companies in the form of lease rentals from Olympia Tech Park as income from business and thereupon allowing this deduction under section 80IA of the Act, which is allowed only if the income from business is taxed under the head “Income from business” at the hands of the Assessee. We do not find any material on record to establish that such income of the Assessee during the relevant year was from any of its idle properties and the Assessee

² TCA.Nos.391 and 392 of 2007, 2336 and 2623 of 2006 and 2169 of 2008 dated 09.10.2012, Madras High Court.

³ Footnote supra (1)

⁴ 427 ITR 113

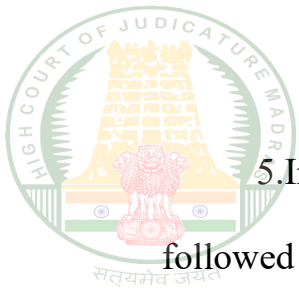


company used to enjoy such properties as a landlord from only earning the rental income.

8. On the contrary, it seems that the Assessee diversified and added its business line for the development of real estate of particular type, namely software companies and even though the name of the company continue to remain as M/s. Khivraj Motors (P.) Ltd. The burden of the argument of the learned counsel for the Revenue, perhaps emanated from only the name of the company, forgetting that the main business activity of the company from its motor business had been diversified into developing a special kinds of property and earning lease rental income as its main business income. By no stretch of imagination, could a software park developed with the special facilities and amenities for software companies, be described or believed to be a property created for earning rental income as income from house property. The Tribunal not only relied upon an earlier decision of Madras High Court in the case of CIT v. Elnet Technologies Ltd. [(2012) 213 Taxman 129], but also having considered all these aspects in great detail, the Division Bench of this Court to which one of us (VKJ) was a member, in M/s. PSTS Heavy Lift and Shift Ltd., had clearly held that where the main business of the company is to earn rental income as its business income, the income would be taxable under the head "Income" entitling the petitioner Assessee to have the deductions of notional expenses like depreciation and special deductions like Section 80IA etc."

4.Dr.Sathiya Narayanan agrees that the clarification of receipts from Operation and Maintenance, revenue sharing from lessee, other income, income from auditorium, and rent would stand covered by virtue of the above orders. As far as income from interest is concerned, that issue has been held against the assessee following the judgment in *Liberty India v. Commissioner of Income-tax*⁵.

⁵ 317 ITR 218 (SC)



5. Incidentally, the assessing authority for assessment year 2003-04 has followed the decision of this Court in *Tidel Park*⁶ and accepted the eligibility of the assessee for the same relief as sought for in this matter. Hence, the substantial questions of law are answered in favour of the assessee and the appeal is partly allowed barring interest income. No costs.

(A.S.M.,J.) (M.S.K.,J.)
21-01-2026

Index: Yes
Speaking order
Neutral Citation: Yes
vs

To

1. The Additional Commissioner of Income Tax,
Company Range-III, Chennai – 600034.
2. The Income Tax Appellate Tribunal, Madras “D” Bench,
Madras.

⁶ Footnote supra (1)



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DR.ANITA SUMANTH J.

AND

MUMMINENI SUDHEER KUMAR J.

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