

Rulings impacting taxation of house property income

Sr. No.	Case Name	Conclusion
Annual value determination		
1.	Dr. K. M. Mehaboob [TS-618-HC-2016(KER)] Reverses ITAT; Rejects leasing between affiliates at lower rate, applies 'reasonable-rent' benchmark	Kerala HC sets aside ITAT order, holds 'reasonable' rent and not the lower actual rent received by assessee-individual, relevant for computing annual value of the property let out u/s 23(1) for AY 1996-97; Observes that assessee alongwith other co-owners had leased out a portion of the property at Re. 1/ per sq. ft. to the company in which they were directors, however, the AO assessed the annual value at Rs. 4 per sq.ft. on the basis of another portion of the same property leased out to other tenant considering the methodology prescribed u/s 23(1); ITAT had quashed AO's action by holding that Sec 23(1) (which provides for computation of annual value of 'let out' property) cannot be applied to present case as the co-owners themselves were the lessees; Rejecting ITAT view, HC holds that "this argument cannot be accepted for the reason that Section 23 does not exempt cases in which buildings have been let out by the owners to firms or companies in which they are interested"; Accordingly, HC rules that Sec 23(1) will be applicable in all cases where annual value has to be estimated on let-out properties
2.	Tip Top Typography [TS-488-HC-2014(BOM)] Interest-free deposit not house property income; Follows Full bench ruling	Bombay HC upholds Tribunal order, Revenue can't brush aside municipal valuation for determining fair rent while arriving at annual value of property let out by assessee; In case AO not convinced by assessee's determination of fair rent and desires to undertake determination himself, AO shall be bound by relevant rent control legislation as municipal value acts as 'safe guide'; Merely because rent has not been fixed under relevant Rent control regulation, any other determination contrary thereto can't be made by AO; As transaction entered by assessee does not reflect any extraneous circumstances, rejects Revenue's contention that notional interest on refundable security deposit should be considered for rental value determination; Relying on Delhi HC Full Bench ruling in Moni Kumar Subba, HC holds that there is no "magic formula" for fair rent determination, which depends on facts and circumstances in each case
3.	DLF OFFICE DEVELOPERS [TS-573-HC-2012(DEL)] Approves split of rental income and maintenance fees between Group companies	Delhi HC property maintenance charges paid by tenants to another group company cannot be clubbed with assessee's rental income; Assessee (DLF) did not render maintenance services, nor had domain over maintenance charges; Transaction not collusive arrangement to avoid tax; Assessee (DLF) being owner of property assessable only in respect of annual letting value
4.	Hariprasad Bhojnagarwala [TS-813-HC-2011(GUJ)] Full bench - HUF not a fictional entity, entitled to self-occupied property benefit like individuals	Gujarat HC Full Bench grants relief u/s 23(2) providing annual value of house property as 'nil' available to HUF; Relief not available only to imaginary assessable entity like partnership; HUF is a group of individuals, not fictional entity since family cannot consist of artificial persons

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Sr. No.	Case Name	Conclusion
5.	Sobha Interiors Pvt. Ltd [TS-633-ITAT-2016(Bang)] Interest-free security-deposit from sister-concern on let-out property relevant for income determination	Bangalore ITAT upholds Revenue's determination of annual value ('ALV') of property let out by assessee to its sister concern, by adopting 'notional interest' on security deposit received by assessee; During relevant AY 2007-08, vide supplementary lease-deed, the monthly rent was re-fixed and reduced to Rs.25,000 per month from Rs.5 lakhs per month, while negotiating interest free security deposit at Rs.25 crores; Rejects assessee's stand that on account of commercial expediencies the rent was reduced and that AO does not have power to enhance the ALV on the basis of higher deposit, ITAT observes that it was only on receipt of a substantial amount towards interest-free security deposit that the rent was reduced; Relies on Punjab & Haryana HC ruling in K. Streetlite Electric Corporation wherein it was held "that interest-free security deposit taken by the assessee hugely disproportionate to monthly rent charged is a device to circumvent liability to income-tax. Therefore, notional interest on security deposit is to be treated as income from house property"; Accordingly, ITAT rules that "the notional rent earned on this Rs.25 crores cannot be ignored at the time of computing the ALV of the property", Distinguishes assessee's reliance on coordinate bench rulings in Rajiv Chandrashekar and Surge Enterprises Ltd.
6.	Baker Technical Services (P) Ltd [TS-90-ITAT-2009(Mum)] ALV not to be restricted to the standard rent under Rent Control Act	Mumbai ITAT holds ALV not to be restricted to the standard rent under Rent Control Act
7.	Kokilaben D. Ambani [TS-581-HC-2014(BOM)] Can't ignore rent control legislation to determine property value u/s 23(1)(a); follows Tip Top ruling	Bombay HC disposes Tribunal's reference at assessee's instance, holds no basis for apprehension that Tribunal would ignore the Rent Control Legislation and prefer some other mode in determining fair rent or annual letting value of property u/s 23(1)(a); Rejects assessee's contention that annual letting value of self occupied property had to be the Municipal Annual Rateable value and not sum equivalent to standard rent under Bombay Rent Control Act while computing property income u/s 23; Relies on co-ordinate bench ruling in Tip Top Typography which followed Full Bench ruling of Delhi HC to hold that in case properties are subject to Rent Control Legislation, the same cannot be ignored and AO has to determine standard rent according to Rent Control Legislation if not fixed by competent authority
8.	MONI KUMAR SUBBA [TS-129-HC-2011(DEL)] Delhi HC Full bench rules on house property income in case of Interest-free deposit	Delhi HC Full Bench holds notional interest on interest-free security deposit received from tenant not to be added in determining fair rental value of house property

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Sr. No.	Case Name	Conclusion
Vacancy allowance		
9.	Sharan Hospitality Private Limited [TS-511-ITAT-2016(Mum)] Vacancy allowance u/s 23(1)(c) available only when property actually let, 'intention-to-let' irrelevant	Mumbai ITAT rules in favour of Revenue, rejects assessee's claim for vacancy allowance u/s 23(1)(c) in respect of property which remained vacant during AY 2009-10; Assessee had acquired the property in December, 2008 with the intention of letting out and earning rental income, rejects assessee's argument that since the property could not be let out and was vacant during the relevant AY, its annual value ought to be restricted to the actual rent received or receivable, i.e., Nil and that the condition of the property being let out u/s 23(1)(c) was met by the intent to let out the same; Holding that taxing statutes are to be strictly construed, ITAT accepts Revenue's stand that the notion of 'intent to let out' or 'proposed to be let', etc., cannot be imported into the provision, which seeks to tax a notional sum, i.e. annual value defined as the fair rent at which the house property may reasonably be let from year to year; Rules that where the property was not let at all during the entire previous year, no deduction for vacancy allowance is permissible, concludes that the words 'where the property is let' in Sec 23(1)(c), represent a state of actual letting and cannot be extended to a state of 'intended letting'; Relies on Agra ITAT ruling in Ramesh Chand, AP HC ruling in Vivek Jain wherein it was held that only a property which is let could be vacant, further relies on plethora of rulings rendered in context of Sec 24(1)(ix), holds that there is no material change between erstwhile Sec 24(1)(ix) and current Sec 23(1)(c)
10.	Vikas Keshav Garud [TS-385-ITAT-2016(PUN)] No house-property income on vacant property u/s 23(1)(c); Actual letting during year unnecessary	Pune ITAT accepts assessee's claim for determining annual letting value ('ALV') of a commercial complex remaining vacant during AY 2009-10 at 'Nil', rejects Revenue's determination of gross ALV at Rs. 1.51 lakhs based on actual rent received for same property in earlier years; Rejects Revenue's contention that Sec. 23(1)(c) is not applicable to property which is not let out at all during relevant year, clarifies that " <i>This interpretation does not appear consistent with the phraseology mandated in Sec 23(1)(c) which includes a situation where the property can remain vacant during the whole of the relevant previous year</i> "; Observes that the situation 'property is let' and 'remains vacant for whole year' are mutually exclusive and thus words 'property is let' does not refer to actual letting out of the property and has to be understood in contrast to 'property is self-occupied'; Thus, ITAT holds that Sec.23(1)(c) is also applicable to property which remain vacant but where assessee has intention to let out the same and he has taken appropriate efforts to let out the property; Notes that assessee's property was let out during the FY 2005-06 and hence, observes that "the intention to let out property was thus loud and clear in circumstances which did not however fructify", distinguishes Revenue's reliance on Andhra Pradesh HC ruling in Vivek Jain

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11.	Hercules Hoists Limited [TS-58-ITAT-2013(Mum)]	Mumbai ITAT opines no vacancy allowance available for property not let out for relevant AY
12.	Apoorva Patni [TS-452-ITAT-2012(PUN)]	Pune ITAT disallowed vacancy allowance observing that it could not be said that the property was "intended to be let out.". Upheld the addition made on account of 'income from house property.' The assessee had declared the annual value of a certain property as 'NIL' since it had remained vacant during the relevant period under consideration
13.	Smt. Indra S. Jain [TS-349-ITAT-2012(Mum)] Vacancy allowance not available where property not actually let-out throughout the year	Mumbai ITAT holds vacancy allowance u/s 23(1)(c) for computing income from house property not available for property not actually let out throughout year; Annual Letting Value (ALV) computation based on return on investment rejected; Return on investment not always reliable indicator of fair rent of the property; Property used by Company in which assessee is director not to be excluded from computation of ALV; However, property used by partnership firm can be excluded
14.	Smt. Shakuntala Devi [TS-753-ITAT-2011(Bang)] No tax on deemed rent for vacant inhabitable house	Bangalore ITAT opines vacant house not rented throughout the year despite owner's efforts qualify for benefit of Sec 23(1)(c); Absent actual rent received, annual rent for vacant property to be 'NIL'; 'Actual' letting in past or in relevant FY not necessary for claim the benefit; Reliance placed on ITAT ruling in Premsudha Exports [TS-5295-ITAT-2007(MUMBAI)-O] and Smt Indu Chandra
<u>Business Income vs. Income from House Property</u>		
15.	Rayala Corporation Pvt. Ltd. [TS-437-SC-2016] Resolves business income vs house property controversy on lease-rentals in assessee's favour	SC reverses Madras HC judgement, rules in favour of assessee-company; Holds rental income arising to assessee from leasing property taxable as 'business income' and not 'house property' income, notes that assessee has only one business of leasing its property; SC rules that " <i>The business of the company is to lease its property and to earn rent and therefore, the income so earned should be treated as its business income</i> "; SC accepts assessee's reliance on ruling in Chennai Properties & Investments Ltd wherein the Apex Court had held that rental income received by assessee having a business of renting the property, shall be taxed as business income; SC observes "...we are of the view that the law laid down by this Court in the case of Chennai Properties (supra) shows the correct position of law and looking at the facts of the case in question, the case on hand is squarely covered by the said judgment"; SC rejects Revenue's reliance on Apex Court ruling in G. Mercantile Corpn. (P) Ltd
16.	Agya Ram [TS-426-HC-2016(DEL)] Quashes reassessment on treatment of income earned from licensing premises	Delhi HC reverses ITAT order for AYs 1990-91 to 1993-94, quashes reassessment by treating income from licensing premises as business income u/s 28 and not "income from house property"; Revenue held that license fees earned by the assessee on part of premises owned by it was income from house property; On perusal of license deeds, HC notes

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		<p>that there was no arrangement of lease and thus payment received would not be treated as 'rent', holds that "Even though the AO has used the word "camouflage" there is no material other than the licence deeds and the licence receipts for the AO to come to the conclusion that there was any attempt at camouflaging"; Further notes that ITAT before allowing Revenue's appeals had not examined CIT(A)'s detailed reasoning to conclude that licence fees received was business income, HC remarks "<i>that none of the authorities paid attention to the requirement of the law that reasons, even prima facie, and not conclusions, needed to be recorded by the AO for reopening the assessments</i>"</p>
17.	<p>Ansal Housing and Construction [TS-418-HC-2016(DEL)] 'Ansal' ruling on house-property doesn't require reconsideration post SC's 'Chennai Properties' ruling</p>	<p>Delhi HC allows Revenue's appeal challenging ITAT order for AY 1994-95, ITAT had held that Sec. 22 and 23 [dealing with income from house property and determination of annual letting value ('ALV')] were inapplicable to properties owned by the assessee; Relies on coordinate bench ruling in Ansal Housing Finance & Leasing Co. Ltd. ('AHFL') [TS-929-ITAT-2012(DELHI)-O] wherein after taking into account SC rulings in East India Housing & Land Development Trust, Sultan Bros. (P) Ltd. and Karan Pura Development Co. Ltd. it was held that "<i>levy of income tax in the case of one holding house property is premised not on whether the Assessee carries on business as landlord, but on ownership</i>"; Dismisses assessee's submission that coordinate bench ruling in AHFL requires reconsideration in view of SC ruling in Chennai Properties & Investments Ltd.; HC notes that coordinate bench in AHFL had rejected assessee's plea that flats owned could not be notionally taxed on the basis of their ALV as the owner was an occupant and such occupation was in the course of its business by holding that "<i>If the assessee's contention were to be accepted, the levy of income tax on unoccupied houses and flats would be impermissible - which is clearly not the case</i>"; Distinguishes assessee's reliance on SC decision in Chennai Properties & Investments Ltd. as the main object of assessee therein was holding the properties and earning income by letting out properties. as against assessee's case where letting out of properties wasn't a part of its object</p> <p>Assessee's SLP against the aforesaid order by Delhi HC has been admitted by the SC vide order dated September 19, 2016.</p>
18.	<p>Keyaram Hotels P Ltd [TS-741-SC-2015] Dismisses taxpayer's SLP against HC-ruling holding property leasing as house property income</p>	<p>SC dismisses assessee's SLP against Madras HC judgement, HC had held that rental income derived from leasing of commercial property was taxable as 'income from house property'; Revenue had assessed the rental income under the head of 'income from house property' on the ground that assessee was not engaged in any business activity; HC had applied the ratio laid down by SC in East India Housing and Land Development Trust Ltd wherein it was held that</p>

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	[TS-884-HC-2014(MAD)]	"where the owner of the property exploited the property by leasing out the same and realised income byway of rent, the same was to be assessed under the head 'Income from house property' and not as "business income"; HC had also referred to principles laid down by SC in Universal Plast Ltd., Guntur Merchants Cotton Press Co. Ltd; Thus, applying SC decision in East India Housing to the facts established by the AO that assessee was not engaged in any business activity, HC had ruled that income received from letting out of the property was assessable as 'income from house property' and not business income
19.	Magarpatta Township Development & Construction Co. [TS-717-ITAT-2012(PUN)] Magarpatta IT park's rental revenues from complex activities not 'house property' income	Pune ITAT holds IT park rental income not taxable as house property, as the systematic business activity with 'profit motive' carried out; IT park offered specialised & complex services to IT companies and rental income represent business income; SC ruling in Shambhu Investment distinguished; Magarpatta's primary object is to exploit property by way of complex commercial activities; Sec 80-IB deduction allowed on part of the project complying with all the conditions relying on Bombay HC ruling in Vandana Properties
20.	National Storage (P.) Ltd [TS-9-SC-1967] Income earned through letting of vaults for business purpose, taxable as business income	SC concludes income earned through letting of vaults for business purpose, taxable as business income and not house property
21.	Tamil Nadu Tourism Development Corporation Ltd. [TS-570-HC-2014(MAD)] Income from leased property to franchisee a business income, not house property	Madras HC rules that income of assessee (Govt. undertaking engaged in tourism activities) from leased hotel units is assessable as 'business income' and not 'income from house property'; States that assessee gave special right / privilege to franchisees / lessees to undertake a particular business in assessee's property on receipt of franchisee fee, thus, income in nature of business; Also notes that contract between assessee & franchisees shows that assessee continued to be in business of tourism activities, though not directly, but through franchisees and received income as franchisee fee; Upholds Tribunal's findings that assessee did not treat the let out properties as non-business assets which points out assessee's intention to earn business income; Rejects assessee's reliance on co-ordinate bench ruling in Keyaram Hotels (P) Ltd, as distinguishable on facts
22.	S.Premalatha [TS-440-HC-2014(AP)] AP HC differs from Karnataka on 'lease vs ownership'; Holds building rent as business	Andhra Pradesh HC rules that rental income received by assessee from building constructed on leasehold land is assessable as business income and not house property income; Construction of building on land taken on lease was for purpose of business and not with intention to own it, lease did not lead to conferment of ownership rights on assessee; States that Transfer of Property Act maintains

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		clear distinction between ownership & lease, hardly any circumstances where lease can metamorphosise or transform into ownership, unless parties to transaction take required steps under law; Howsoever pervasive control of lessee over property maybe, lessee cannot become owner under such lease and time period of lease cannot change character of rights, states HC; Expresses inability to concur with Karnataka HC ruling in D.R. Puttanna Sons
23.	Toyota Techno Park India (P) Ltd. [TS-190-HC-2014(KAR)] Rental income from industrial park letting, "Business Income"; Follows Velankani ruling	Karnataka HC upholds ITAT order directing taxation of income from letting out of building by Toyota Techno Park India (assessee) to tenants as "Business Income" and not "Income from House Property"; Follows co-ordinate bench ruling in Velankani Information Systems, wherein HC had held that if renting of building and provision of facilities are inseparable and intention is to carry on business of letting out commercial property, then rental income falls under head "Business Income"; Assessee engaged in business of developing, operating, maintaining industrial park and providing infrastructure facilities to different companies as its business, therefore, rental income to be taxed under head "Business Income"
24.	Pelican Investments Pvt Ltd. [TS-640-HC-2012(BOM)] Rejects clubbing of consecutive lease agreements, Sub-lease income not house property	Bombay HC rules rent received from sub-licensee does not constitute "Income from House property"; As original tenure of lease less than 12 years, conditions u/s 27(iii-b) r.w.s. 269UA not satisfied; Subsequent renewal of lease on different terms and conditions cannot be clubbed together, as first agreement did not grant right to renewal; Mere fact that property subleased to the same licensee is not enough to consider a single agreement for the entire tenure in absence of attempt to camouflage the arrangement
25.	Chennai Properties & Investments Ltd [TS-20-HC-2003(MAD)] Businessman's perspective to be adopted while determining whether the letting of property is a business activity or mere exploitation of property by the owner	Madras HC holds businessman's perspective to be adopted while determining whether the letting of property is a business activity or mere exploitation of property by the owner
26.	B. Nagi Reddy [TS-10-HC-1991(MAD)] Rental income earned by filmmaker by letting out studios, assessable as business income	Madras HC opines rental income earned by filmmaker by letting out studios, assessable as business income
27.	Keyaram Hotel Pvt. Ltd. [TS-311-ITAT-2016(CHNY)] Assesses 25% rent as	Chennai ITAT dismisses Revenue's appeal for AY 2003-04, upholds CIT(A)'s order charging 25% of rental income received by assessee(dealing in leasing out commercial

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	business-income; Follows SC over own-case HC-ruling	complex alongwith indispensable amenities) as business income; Rejects Revenue's strong reliance on assessee's own case for AY(s) 2001-02, 2004-05 2005-06, 2007-08 and 2008-09 wherein Madras HC declared the entire rental income to be charged as Income from house property; Refuse to follow Madras HC in assessee's own case, notes that HC had relied upon earlier ruling in Chennai Properties and Investments Ltd, which was later reversed by SC, observing that ownership of land or leases cannot be a deciding factor for rental income classification, but the nature of activities and operation in relation to them would be deciding factor; Referring to Article 141 of the Constitution of India, ITAT remarks that "this Tribunal is expected to follow the judgment of Apex Court in Chennai Properties and Investments Ltd. (supra) rather than the judgment of Madras High Court in the assessee's own case.." ; On merits, states that the nature of amenities provided by assessee such as maintaining common area, lift operation, providing security, maintenance of waiting hall, meeting hall, etc. was systematic and regular, and thus it was crucially in nature of "business activity"
28.	Sameera Electronics Pvt Ltd. [TS-741-ITAT-2014(Mum)]	Mumbai ITAT rejected assessee's claim that letting of factory to holding was for a temporary period, ITAT holds " <i>no material was brought on record to substantiate the said claim....The assessee has also failed to show that it was taking efforts to revive its business activities. All these factors cumulatively show that the intention of the assessee in letting out the factory premises could not be due to temporary lull in the business.</i> "ITAT thus concluded that rental income needed to be assessed as income from House property
29.	JST Realty Pvt. Ltd. [TS-599-ITAT-2014(Mum)] Location of building in STP irrelevant for determining income nature as 'business'	Mumbai ITAT holds lease rentals received by assessee from letting of building alongwith equipment, to tenants registered under STPI, assessable as 'income from house property', and not 'business income'; Noting 'equipment letting' required for undisturbed enjoyment of property, holds 'equipment leasing' only incidental to 'property leasing', thereby ascribing source of income to 'property'; Relies on SC rulings in Sultan Brothers (P) Ltd. and Shambhu Investments Pvt. Ltd. to hold that income from letting of property cannot be assessed as 'business income' merely because it was carried out in a systematic and organized manner; Further holds location of building (in a notified industrial park) or being let to entities falling in a particular class or industry, irrelevant for determining the nature of income there-from, or its assessability under the Act; However, on revelation of assessee's claim of not just owning a building (located in STP) , but of said building itself being a notified park (which it claims as 'operating and maintaining' by way of organized activity) eligible for Sec 80-IA(4)(iii) deduction , and in absence any examination by Revenue in this regard, ITAT remits matter for denovo consideration

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Sr. No.	Case Name	Conclusion
30.	Green Valley Agro Mills Ltd. [TS-391-ITAT-2014(DEL)] Landlord services to tenant 'optional', payment not rental but business income	Delhi ITAT holds service charges received by assessee company (being 'landlord') from its tenant, pursuant to service agreement, to be assessed as 'business income', not 'rental income'; Though rent agreement executed alongwith service agreement, the latter was entered by assessee in capacity of 'contractor' for rendering certain services to tenant including daily cleaning of property; Service agreement not integral part of rent agreement, as tenant may or may not opt for receiving such 'services' from assessee; To keep the property clean on daily basis is not landlord's function unless specifically agreed to; Allows deduction for expenditure incurred by assessee for earning such service income, being held as business income
31.	Kirloskar Systems Ltd. [TS-618-ITAT-2013(Bang)] Income from fixtures let-out separately and maintenance charges, not house property income	Bangalore ITAT opines income from letting of fit-outs, fixtures, etc. not chargeable as 'income from house property'; Assessee had let-out building and fit-outs/furniture separately; Factors relevant for determining rent for fit-outs/furniture were different from such factors in respect of building; Income from maintenance charges not taxable as 'income from house property'; Reliance placed on Karnataka HC rulings in S. Mohan Kumar, Velankani Information Systems, Shankaranarayana Hotels P. Ltd and Calcutta HC ruling in Russell Properties and Model Manufacturing
32.	Perfect Scale Company Pvt. Ltd. [TS-475-ITAT-2013(Mum)] Primary object being letting-out, not commercial exploitation, income assessable under "house property"	Mumbai ITAT holds income from business assets used for renting out & not exploited commercially, assessable as income from house property; Reliance placed on SC ruling in Shambhu Investment; When rental income not actually received, income not to be notionally assessed under house property since assets were business assets; Delay of 513 days condoned relying on ITAT ruling in Phoenix Mills Ltd
33.	Tamil Nadu Tourism Development Corporation Ltd. [TS-469-ITAT-2013(CHNY)] State tourism corporation's leasing income held as business, not house property	Chennai ITAT holds rental / franchisee income received by assessee [Tamil Nadu Tourism Development Corporation] from leasing out properties, be treated as 'business income' and not income from house property; Rental / franchisee income is nothing less than income derived in carrying business of tourism activities; Since income is not taxable as House Property as claimed by assessee, standard deduction of 30% not available; Expenditure incurred for maintaining statue at Kanyakumari is revenue in nature, and incurred with a view to attract and develop tourism; Statue of Thiruvalluvar is public property and not assessee's property, and hence, expenditure cannot be treated as capital; Grants given by both the Govt. of India and Tamil Nadu Govt. were capital grants for developing infrastructural facilities at tourist destinations; All are fiscal grants from Govt. to Govt. Corporation and they do not come in the nature of revenue income of the assessee corporation

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34.	Anjala Exhibition Pvt Ltd. [TS-236-ITAT-2013(DEL)] Rent from PVR for cinema building taxable as 'house property' income	Delhi ITAT holds income from letting out vacant cinema building to PVR Cinemas taxable as 'income from house property', not as income from other sources; Intention of parties, not title of the agreement relevant in determining whether income was rental income; Rejects Revenue's contention that income arose from JV/ partnership agreement to run existing cinema building according to changing market needs; Bombay HC ruling in Parekh Traders followed
35.	Krishna Land Developers Pvt. Ltd. [TS-594-ITAT-2012(Mum)] Exploiting IT park through complex commercial activities treated as business income	Mumbai ITAT holds income from IT park assessable as 'business income' and not 'income from house property'; Intention is to exploit property through complex commercial activities and not simply invest in property, Commerce Ministry's approval requiring maintenance of various facilities considered; Assessee also eligible for Sec 80IA(4) deduction
36.	Global Tech Park (P.) Ltd [TS-106-ITAT-2008(Bang)] Lease rental derived by letting out IT Park as a commercial venture, taxable as business income	Bangalore ITAT opines lease rental derived by letting out IT Park as a commercial venture, taxable as business income
37.	Golflink Software Park Pvt Ltd [TS-252-ITAT-2011(Bang)] IT Park's Lease Rentals taxable as Business Income; not House Property	Bangalore ITAT holds lease rental income received by Developer from Technology Park taxable as 'Business Income' and not income from 'House Property'
38.	Kenton Leisure Services Pvt Ltd [TS-785-ITAT-2011(COCH)] Lease rental under composite business arrangement taxable as business income, not house property	Cochin ITAT notes rental income under lease agreement forming part of a composite arrangement for construction & maintenance, not taxable as income from house property or income from other sources; Revenue not justified in artificially segregating entire consideration into different streams in view of indivisible business; Entire receipt taxable as business income
39.	M/s Shanaya Enterprises [TS-300-ITAT-2011(Mum)] Despite TDS u/s 194I, studio rentals taxable as Business Income	Mumbai ITAT holds studio rentals taxable as Business Income and not House Property
Other issues under House Property taxation		
40.	Podar Cement (P.) Ltd. [TS-17-SC-1997] Requirement of registration of sale deed in context of section 22 not warranted	SC holds requirement of registration of sale deed in context of section 22 not warranted; 'Owner' means person who is entitled to receive income from property in his own right

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41.	Shew Kissen Bhattar [TS-32-SC-1997] Compound interest not deductible under 'Income from House Propoerty'	SC concludes compound interest not deductible under 'Income from House Propoerty'
42.	Sultan Brothers (P.) Ltd [TS-2-SC-1963] Rent received from inseparable letting of building and plant & machinery, taxable under residuary head of income	SC holds rent received from inseparable letting of building and plant & machinery, taxable under residuary head of income
43.	Manju Kumar [TS-673-HC-2013(P & H)] Only simple interest, not compound interest allowable as house property deduction u/s 24	Punjab and Haryana HC rejects assessee's deduction for compounded interest u/s 24 while computing house property income; Interest paid on interest levied by bank, because of non-payment of installments of borrowed capital, not admissible deduction; Reliance placed on SC ruling in Shew Kissen Bhattar; Re-assessment u/s 148 held valid as assessee declared incorrect information of rental income from share in property
44.	Garg Dyeing & Processing Industries [TS-863-HC-2012(DEL)] Rent from composite letting of property constitutes other income; SC ruling distinguished	Delhi HC holds composite rent received under a composite lease deed taxable as "income from other sources" and not income from house property; Intention of parties relevant as lease deed covered rent for building, furniture/ fittings and charges for maintenance thereof; Such agreements different from letting of bare space with right to use common facilities; SC ruling in Sultan Brothers followed; SC ruling in Shambhu Investments distinguished
45.	Jasmine Commercials Ltd [TS-34-HC-2011(CAL)] Arrears of rent taxable only as "house property" income	Calcutta HC holds arrears of rent cannot be taxed under any other head of income when "notional rent" of the property was already taxed as House Property Income
46.	Madgul Udyog [TS-4-HC-1989(CAL)] 'Owner' u/s 22 to be interpreted in the broadest possible manner	Calcutta HC opines 'owner' u/s 22 to be interpreted in the broadest possible manner
47.	Smt. T.P. Sidhwa [TS-14-HC-1980(BOM)] Rental income from property to be charged under 'Income from house propoerty'	Bombay HC states rental income from property to be charged under 'Income from house propoerty'; even though assessee is not the owner
48.	Dwarakanath Harischandra Pitale [TS-2-HC-1937(BOM)] Two persons owning and managing property jointly	Bombay HC holds two persons owning and managing property jointly can be assessed as 'association of persons'; such an association is 'owner' of property

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	can be assessed as 'association of persons'	
49.	Dr. P.A. Varghese [TS-2-HC-1970(KER)] Amenities provided in the building form part of building let out, income from which is assessable as 'Income from House Property' u/s 22	Kerala HC holds amenities provided in the building form part of building let out, income from which is assessable as 'Income from House Property' u/s 22
50.	Laxmidas Devidas [TS-1-HC-1937(BOM)] Two or more owners of property can be assessed as 'association of persons' in respect of profits derived therefrom	Bombay HC opines two or more owners of property can be assessed as 'association of persons' in respect of profits derived therefrom; said association is 'owner' of property
51.	Manpreet Singh [TS-1-ITAT-2015(DEL)] Rent from mobile cos. for 'antennas-installation', a 'property income'; Allows 30% standard deduction	Delhi ITAT holds rent from mobile companies for use of terrace to install antennas, held 'house property' income; Rejects Revenue's stand to treat such rent as income from other sources' ('IFOS'), being rent for an unrelated attachment to the roof; Rejects Revenue's reliance on Calcutta HC Mukherjee State ruling, that rent for fixing hoardings to the building for advertisement, not 'property income'; ITAT notes in that case, the "rent was for hoardings per se", not for rights to use the roof to install hoardings, holds Revenue's reliance misplaced; Refers to assessee's agreement terms, concludes "As long as the rent is for the space, terrace and roof space in this case, and which space is certainly a part of the building, rent can only be taxed as 'income from house property'."
52.	Mr. I.Ifthiqar Ashiq [TS-266-ITAT-2013(CHNY)] Pre-existing commercial property can't be treated as residential; Allows exemption u/s 54F	Chennai ITAT holds commercial building cannot be treated as 'residential house property' merely because rental income chargeable u/s 22 as 'Income from house property'; Income Tax Act does not make any distinction between rental income from 'house property' and from 'commercial building', Rejects Revenue's contention that Sec 54F exemption not available since assessee owned one residential property and one commercial property (to be also treated as residential); Condition of not owning more than one residential house to claim exemption u/s 54F satisfied
53.	Shri C. Ramabrahmam [TS-833-ITAT-2012(CHNY)] Allows double benefit for interest on housing loan	Chennai ITAT holds interest on housing loan incurred for acquiring capital asset deductible in computing capital gains even though deduction already allowed against income from house property; Sec 24(b) regarding deduction of housing interest and Sec 48 regarding computation of capital gains mutually exclusive of each other; None excludes the operation of the other; Housing loan interest to be added to the cost of acquisition of the property

Rulings impacting taxation of house property income

Sr. No.	Case Name	Conclusion
54.	Litolier Properties Pvt. Ltd. [TS-154-ITAT-2012(Mum)] Discount charges on Deep Discount Debentures deductible as interest u/s 24(b)	Mumbai ITAT holds proportionate discount on Deep Discount Debentures issued for construction of house property amounts to interest u/s 2(28A); Deduction for interest available u/s 24(b) in computing income from house property; CBDT Circular No. 28 of 1969, SC decision in Madras Industrial Finance Corporation Ltd followed
55.	Adyar Gate Hotel Ltd [TS-791-ITAT-2011(CHNY)] Lease rent for IT Park taxable as income from other sources, not house property	Chennai ITAT holds rental income received from lease of IT Park along with provision of additional facilities without which building could not be leased, not taxable as income from house property; Lease agreement and facility agreement to be read conjointly, considering intention of parties; Rental income taxable as 'income from other sources' relying upon SC ruling in Sultan Brothers
56.	Vaishnav S Puri (HUF) [TS-5-ITAT-2011(Mum)] Taxability of business centre Income	Mumbai ITAT states income from owned properties let out along with furniture is taxable as 'Income from house property'
57.	G. Raghuram [TS-116-ITAT-2010(HYD)] Rental income earned by letting out assets, incidental to letting out building, assessable as income from house property	Hyderabad ITAT holds income derived from letting of building, to which other asset is attached that is incidental to such letting, to be assessed as income from house property

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