

Joseph George and Co. Vs Income Tax Officer and Another

Court: High Court Of Kerala

Date of Decision: Oct. 15, 2009

Acts Referred: Income Tax Act, 1961 â€” Section 234A, 234B

Citation: (2010) 328 ITR 161

Hon'ble Judges: V.K. Mohanan, J; C.N. Ramachandran Nair, J

Bench: Division Bench

Advocate: Anil D. Nair and Nivedita A. Kamath, for the Appellant; P.K.R. Menon and Jose Joseph, for the Respondent

Final Decision: Dismissed

Judgement

C.N. Ramachandran Nair, J.

Only two issues arise from the three questions raised in the connected appeals filed by the Assessee. The

first issue is whether the income received from building under the name ""Konny Building"" is business income or not. Counsel contended that the

Assessee is engaged in letting out rooms in the lodging house and the Konny Building is one rented out to the bank on long-term lease. It is

conceded that the income from the lodging building is treated as business income and the Appellant has no grievance against the same. However,

we are unable to accept the Appellant's contention that rental income from the Konny Building also should be treated as business income because

letting out building on long-term lease is not a business activity at all. While lodging is business, letting out building to the bank cannot be treated as

business. It is to be assessed as income from property. We, therefore, uphold the finding of the Tribunal with regard to the confirmation of

assessment on the income from the Konny Building. The next issue, i.e., liability for interest under Sections 234A and 234B is covered by a single

Bench decision of this Court in Seapearl Enterprises v. Deputy CIT [2007] 294 ITR 374 . It is conceded that a Full Bench of the Punjab and

Haryana High Court took the same view in the decision in 2008 (3) SLJ 492 . We do not find any ground to deviate from the view taken by the

single judge of this Court which found acceptance with the Full Bench of the Punjab and Haryana High Court. Consequently, we dismiss all the

appeals filed by the Assessee.