

REPORTABLE _____

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4358 OF 2018
(Arising out of Special Leave Petition (C) NO. 25006
OF 2012)Dated APRIL 24, 2018.

Commissioner of Income Tax-VIAppellant(s)

Versus

Virtual Soft Systems Ltd. Respondent(s)

Key Points:

Capital Recovery & Interest - It is a cardinal principle of law that the difference between capital recovery and interest or finance income is essential for accounting for such a transaction with reference to its substance. If the same was not carried out, Respondent would be assessed for income tax not merely on revenue receipts but also on non-revenue items which is completely contrary to the principles of IT Act and to its Scheme and spirit.

ICAI - When a recognized body of Accountants, after due deliberation and consideration publishes certain materials for its members, one can rely upon the same.

Bifurcation of Lease Rental – Such bifurcation is, by no stretch of imagination, an artificial calculation and, therefore, lease equalization is an essential step in accounting process to ensure that real income from transaction in the form of revenue receipts only is captured for the purposes of income tax. Moreover, there is no express bar in IT Act which bars bifurcation of lease rental. This bifurcation is analogous to the manner in which a bank would treat an EMI payment made by debtor on a loan advanced by bank. Repayment of principal would be a balance sheet item and not a revenue item. Only interest earned would be a revenue receipt chargeable to income tax.

Interpretation of Statute - When internal aid is not available then for the proper interpretation of Statute, court may take help of external aid. If a term is not defined in a Statute then its meaning can be taken as is prevalent in ordinary or commercial parlance.

Income Tax Act, 1961, - Rental Income - Lease Equalization Charges – Deduction - Whether deduction on account of lease

equalization charges from lease rental income can be allowed under Income Tax Act, 1961, on the basis of Guidance Note issued by Institute of Chartered Accountants of India (ICAI)? – Main contention of Revenue is that Respondent cannot be allowed to claim deduction regarding lease equalization charges since as such there is no express provision regarding such deduction in IT Act – Held, it is apt to note here that Respondent can be charged only on real income which can be calculated only after applying prescribed method - IT Act is silent on such deduction - For such calculation, it is obvious that Respondent has to take course of Guidance Note prescribed by ICAI if it is available - Only after applying such method which is prescribed in Guidance Note, Respondent can show fair and real income which is liable to tax under IT Act - Therefore, it is wrong to say that Respondent claimed deduction by virtue of Guidance Note rather it only applied method of bifurcation as prescribed by expert team of ICAI - Further, a conjoint reading of S.145 of IT Act r/w S.211 (un-amended) of Companies Act make it clear that Respondent is entitled to do such bifurcation and there is no illegality in such bifurcation as it is according to the principles of law - Moreover, rule of interpretation says that when internal aid is not available then for proper interpretation of Statute, court may take help of external aid - If a term is not defined in a Statute then its meaning can be taken as is prevalent in ordinary or commercial parlance - Hence, there is no force in contentions of Revenue that accounting standards prescribed by Guidance Note cannot be used to bifurcate lease rental to reach real income for the purpose of tax under the IT Act - Respondent is entitled for bifurcation of lease rental as per accounting standards prescribed by ICAI - Moreover, there is no express bar in IT Act regarding application of such accounting standards – Ordered accordingly. (Para 5, 14, 16, 17)

Judgment([click here for complete judgment](#))