

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.2409 OF 2009

The Commissioner of Income Tax – 8, Mumbai ..Appellant.

Versus

M/s.Enakshi Silk Mills Private Limited ..Respondent.

Mr.Suresh Kumar for the appellant.

Ms.Aasifa Khan for the respondent.

**CORAM : Dr.D.Y. Chandrachud &
J.P. Devadhar, JJ.**

DATE : 13th January, 2010.

PC. :

1. The following substantial question of law has been formulated by the revenue in appeal against the judgment of the Tribunal dated 12th September 2008.

The appeal pertains to the assessment year 2003-2004.

“Whether, on the facts and in the circumstances of the case, the Tribunal was correct in treating the income from leased premises given on further rent as business income and not as income from other sources ?

2. The Tribunal has, in our view, correctly come to the conclusion that the income which has arisen from the Business Center was liable to be assessed as income from business and not as income from other sources. The finding of fact is

that the assessee had taken premises on rent and had furnished it as a Business Center, which was equipped with all requisite facilities. On the facts, therefore, the Tribunal was justified in drawing an inference that the the assessee had exploited the premises as a commercial venture and that the income would, therefore, have to be assessed as income from business. Moreover, both in the earlier assessment year and in the subsequent assessment year, the assessment of income was under the head income from business. The Tribunal has correctly applied the principles of consistency.

3. The appeal does not give rise to any substantial question of law and is accordingly dismissed. There shall be no order as to costs.

(J.P. Devadhar, J.)

(Dr.D.Y. Chandrachud, J.)