

DIRECT TAX – RECENT JUDGMENT

CA. Paras Savla, CA. Narayan Atal

S. 40(a)(ia) reduction is disallowance is not retrospective

The provisions dealing with disallowance of deductions in part D of Chapter IV of the Act, particularly those contained in sections 40(a)(ia) and 40A(3) of the Act, that the said provisions are intended to enforce due compliance of the requirement of other provisions of the Act and to ensure proper collection of tax as also transparency in dealings of the parties. The necessity of disallowance comes into operation only when default of the nature specified in the provisions takes place. Looking to the object of these provisions, the suggestions about prejudice or hardship carry no meaning at all. Amendments were carried in the years 2008 and 2010 to provide requisite relief to a bona fide tax payer who had collected TDS but could not deposit within time before submission of the return. The amendment carried in the year 2010, Supreme Court has ruled it to be retrospective in operation. By the amendment brought about in the year 2014, the legislature reduced the extent of disallowance under section 40(a)(ia) of the Act to 30% of the sum payable. However said amendment has been held to prospective and not retrospective w.e.f. 1-4-2005. Shree Choudhary Transport Company v. ITO [2020] 118 taxmann.com 47 (SC)

S. 10(23(C) Revenue need to take broader view on the objects of the Trust

The assessee incurred certain expenditure towards awareness on agriculture, awareness on scientific research programme and blood donor camp expenses, medical treatment expenses, free eye camp activity during the year. The burden lies upon the Revenue to bring on record the evidence to rebut the claim of the Appellant Trust and to establish that the activities carried out and the expenditure incurred by the Assessee Trust could not be related to the educational activities of the Appellant Trust by any stretch of imagination. A mere reference to the expenditure incurred and the Head of expenditure in question while rejecting the Application under section 10(23C)(vi) of the Act is not enough to reject the Application under the provisions of the Act. The very purpose of educational activities and charitable activities for which the said provision intends to extend the benefit of exemption and for educational activities in particular, Section 10(23C)(vi) of the Act, is likely to be defeated if such pedantic and narrow approach on the part of the revenue Authorities is allowed. Kamaraj Educational Trust v. CCIT [2020] 118 taxmann.com 273 (Madras)

S. 80P(2)(d) Co-op Society entitled for deduction

The assessee being a co-operative society is eligible for deduction under section 80P(2)(d) on the interest earned from other co-operative societies. The assessee is eligible for the expenditure under section 57 incurred in earning the interest income which is taxable under the head “income from other sources” as per section 56 - Mantola Co-operative Thrift & Credit Society Ltd. v. ITO [2020] 118 taxmann.com 276 (Delhi - Trib.)