

rate of 10% of the contract receipts, disallowing deduction of the amount said to have been paid by him to sub-contractors. This view was upheld by CIT (A) but the Tribunal upheld the claim of the assessee by observing that the assessee had maintained account of the sub-contractors in the books of accounts and had sought appointment of commission for examination of sub-contractors, who were located at different stations. The Tribunal also followed its order in another case and also referred to affidavit filed by the assessee that certain jobs had been assigned to sub-contractors. The observations of the Tribunal are as under:-

“5. We have considered the rival contentions and we are of the view that sufficient evidence was made available by the assessee to establish that the payments had been made to the sub-contractors. Affidavits had been filed and the assessee had also agreed to bear the expenses on issuance of commission for the purpose of examining the sub-contractors. Copy of agreement dated 10.12.1984 made it clear that the assessee did assign certain job to the sub-contractors. We have already seen that the practice of sub-letting of contractor was common and the Tribunal has taken a consistent view that payments made to sub-contractors may be allowed as a deduction. We find that ground No. 2 must succeed. The A.O. is directed to deduct Rs. 6,20,000/- from total contract receipts.”

3. We have heard learned counsel for the parties.
4. Question whether a particular deduction is to be allowed or

not and whether material in support of claim was sufficient depends on the facts and circumstances of each case. In the present case, the Tribunal has referred to material justifying deduction. In view thereof, the Tribunal was right in permitting the deduction.

5. Accordingly, reference is answered against the revenue and in favour of the assessee.

6. Reference is disposed of.

(ADARSH KUMAR GOEL)
JUDGE

November 13, 2009
prem

(GURDEV SINGH)
JUDGE