

Important judgements and Updates

Tata Coffee Ltd. ITA No. 46 of 2015 Karnataka High Court Against Assessee

Issues discussed and addressed:

Section 37 – Ad hoc disallowance of the expenditure – justified as Assessee failed to justify the same.

Facts of the Case:

The Assessment of the assessee, a public limited company engaged in cultivation, process and export of coffee was completed by the AO by making ad hoc disallowance of certain expenditure on account of failure of the assessee to supply necessary information.

Held by the Court:

Where assessee claimed deduction on account of miscellaneous expenditure under section 37(1) but failed to substantiate the claim with relevant evidences to justify same, AO was justified in making ad hoc disallowance of same.

Mangalore Refinery & Petrochemicals Ltd. ITA (IT) No. 875, 1237 of 2017 Bombay High Court

In favour of Assessee

Issues discussed and addressed:

Section 41(1) - Surplus arising on prepayment of deferred sales tax loan at net present value –not liable to tax being capital receipt.

Facts of the Case:

The Assessee availed the scheme of Government of Karnataka allowing prepayment of sales tax deferment loan outstanding as on applicable date at the net present value (NPV) and the difference arising on account of excess of such outstanding over prepayment at NPV as per scheme was treated as a capital receipt. However the AO finalised the assessment by treating the same as Income Chargeable to Tax u/s 41(1) on account of remission on cessation of trading liability.

Held by the Court:

The surplus arising on prepayment of deferred sales tax loan at NPV is a capital receipt which cannot be termed as remission or cessation of a trading liability so as to attract section 41(1) of the Act.

Judgments Relied Upon by the Court:

- a. Balkrishna Industries Limited 2018) 15 SCC 608 (SC),
- b. CIT v. Sulzer India Limited, (2015) 369 ITR 717 (Bom-HC)

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Awasthi Traders ITA No. 119/Agr/2016, ITA No. 441/Agr/2018 ITAT Agra **In favour of Assessee**

Issues discussed and addressed:

Section 41(1) - Trade payables pending for many years--No evidence that there was a cessation of liability during the concerned year.

Facts of the Case:

AO noticed that payables in assessee's balance-sheet were pending for many years. Accordingly, AO desired to examine veracity of payables and since assessee failed to produce necessary details of trade payables, AO held that there was cessation of liability during relevant assessment year calling for addition under section 41(1).

Held by the Hyderabad Bench of ITAT:

The genuineness of the trade payables or creditors has to be examined in the year in which they originate and that unless the liability becomes unenforceable or is written off by the assessee or is given up by the other party or something is brought on record that there is cessation of liability, the same cannot be brought to tax under section 41(1) of the Act.

Judgments Relied Upon by the Hyderabad Bench of ITAT:

- a. Matruprasad C. Pandey (2015) 59 Taxmann.com 428 (Guj)
- b. Bhogilal Ramjibhai Atara (2014) 43 Taxmann.com 55 (Guj.)
- c. Shri Vardhman Overseas Ltd. (2011) 16 Taxmann.com 350 (Delhi)
- d. Maharashtra State Co-operative Consumers Federation Ltd. (2011) 13 Taxmann.com 163 (Mum).