

MEDICAL REIMBURSEMENT EXEMPTION

A company was paying a fixed sum of 1250/- per month to his employees in advance against of medical reimbursement and if bills has been submitted by the employees during the year ,then giving exemption to them up to expenses incurred by them(Subject to maximum Rs 15000/- per annum), from income tax while calculating the TDS deductible.

Assessing officer has treated assessee as "assessee in default" for non deduction of Tax on medical allowance paid in advance to employee and exemption was given on bill submission for calculating the TDS on salary income.CIT(A) decided case in favour of assessee and later on ITAT has also dismissed the appeal of revenue and decided the case in the favor of assessee/deductor.

IT: Employer was not at fault for not deducting tax at source from medical allowances paid to its employees before incurring of actual medical expenditure. It couldn't be deemed to be in default for non-deduction of tax on medical reimbursements if it has made bona fide estimate of taxable salary of its employees

Facts

- (a) The payments made by assessee to its employees every month included a component towards medical expenditure;
- (b) Assessing Officer treated assessee as an 'assessee-in-default' for not deducting tax at source from medical reimbursements upto Rs. 15,000 paid to the employees;
- (c) In this regard, AO held that the payment of medical expenditure had not to precede the actual incurring of the expenses and it should be only by way of reimbursement;
- (d) On assessee's appeal, the CIT(A) quashed the order of the AO;
- (e) Aggrieved revenue filed the instant appeal against the order of CIT(A).

Held:The Tribunal held in favour of assessee as under:

- (1) Section 192(1) of the Act requires tax to be deducted at an average rate of income-tax in force on estimated income under the head salaries. It was for the employer to prove that the allowances and perquisites given to the employees were tax-free and not to be included in the salary;
- (2) The reliance placed by AO on the expression 'actually incurred' found in proviso to section 17(2) was not relevant while ascertaining the quantum of tax to be deducted at source under section 192;
- (3) The exemption in respect of medical expenditure was to be restricted to expenditure actually incurred by the employees, or Rs. 15,000 whichever was lower. The exemption was to be granted even if the payment preceded the incurrance of expenditure;

(4) Though the allowance paid by the assessee to the employees would not form part of taxable salary of an employee, yet if the employer was required to deduct tax at source treating it as part of salary, then that would be contrary to the provisions of section 192(3) of the Act;

(5) The liability of the person deducting tax at source couldn't be greater than the liability of the person on whose behalf tax at source was deducted;

(6) No tax could be recovered from the employer on account of short deduction of tax at source under section 192 if a bonafide estimate of salary taxable in the hands of the employee was made by the employer;

(7) Thus, the order passed by the AO was rightly quashed by the CIT(A).