

Sum remitted by sub-agents to advertisers out of TDS ambit if sub-agent acted as conduit between advertisers and clients

Summary – The Gujarat High Court in a recent case of Honest Publicity., (the Assessee) held that sub-agents of advertising agencies receiving payments from clients are not supposed to deduct TDS under section 194C while remitting same to advertising agencies.

Facts

- The assessee was engaged in the business of advertising and working as agent in some newspaper, *i.e.*, advertising agencies.
- During assessment, it was found that the assessee received amount from clients and same was paid/credited to aforesaid agencies. However, the assessee had not deducted TDS under section 194C from the payment so made to these advertising agencies. The Assessing Officer disallowed the expenses, and added same to the income of the assessee under section 40(a)(ia).
- On appeal, the Commissioner (Appeals) reversed the order of the Assessing Officer on the ground that the assessee, acting as sub-agent of those advertising agencies, was not supposed to deduct TDS from the payment under section 194C.
- On second appeal, the Tribunal affirmed the order of the Commissioner (Appeals).
- On revenue's appeal:

Held

- The assessee acted as sub agent and whatever amount was received from the client the same was paid to the aforesaid five agencies, who in fact deducted the TDS from the payment, both the Commissioner (Appeals) as well as Tribunal have rightly held that the assessee acting as sub agent was not supposed to deduct TDS from the payment so made to various advertising agencies as per the provisions of section 194C. As stated hereinabove and even the finding given by the Commissioner (Appeals) as well as the Tribunal, various advertisement agencies of whom the assessee worked as sub-agent they deducted the TDS from the payment of such advertisement.
- In view of the above, there was no reason to interfere with the impugned judgment and order passed by the Tribunal.