

Provision for gratuity and leave encashment not a contingent liability but deductible as business expense

Summary – The Karnataka HC in a recent case of Kirloskar Systems Ltd., (the Assessee) held that provision made towards gratuity and leave encashment are not contingent liabilities and, hence, such provision is deductible.

Facts

- This appeal is preferred by the Revenue raising the following substantial questions of law:
 - Whether the Tribunal was correct in holding that the provision made towards gratuity and leave encashment were not contingent liabilities when the assessee had not produce any evidence to substantiate that they were ascertained liabilities and recorded a perverse finding ?

Held

- The Apex Court in the case of *Bharat Earth Movers v. CIT* [\[2000\] 245 ITR 428/112 Taxman 61 \(SC\)](#) has held that an assessee who is maintaining the accounts on mercantile system, a liability already accrued, though to be discharged at a future date, would be a proper deduction while working out the profits and gains of his business, regard being had to the accepted principles of commercial practice and accountancy. It is not as if such deduction is permissible only in case of amounts actually expended or paid. The liability would be an accrued liability and would not convert into a conditional one merely because the liability was to be discharged at a future date. Therefore for that, reason it was held that the gratuity payable and encashment of earned leave is not a contingent liability and provision thereof is deducted. In the light of the settled principles laid down by the Apex Court, no substantial questions of law arise for consideration in this appeal.
- Accordingly, the HC dismissed the appeal.