Sum paid in cash of smaller denomination in lieu of currency of higher denomination is out of ambit of sec. 40A(3)

Summary – The Hyderabad ITAT in a recent case of Dodla Dairy Ltd., (the Assessee) held that where amount was paid by assessee-company to its managing director for conversion of currency from small denomination into currency of higher denomination, there was no element of expenditure involved and, thus, provisions of section 40A(3) were not applicable.

Facts

- The assessee was engaged in the business of processing and sale of milk and milk products.
- The Assessing Officer completed the assessment after making disallowances which comprised of amounts paid to Managing Director (MD) of assessee-company for conversion of currency in smaller denominations to currency of higher denominations; and advance for incurring expenses for the purpose of the assessee-company. The Assessing Officer was of the view that amounts paid were in cash and as such the provisions of section 40A(3) were attracted.
- The Commissioner (Appeals) deleted the disallowance made by the Assessing Officer.

Held

Conversion of money

- It cannot be disputed that there is no element of expenditure involved and there is no outgo of funds of the assessee, inasmuch as whatever amount is paid to the MD, is returned by him, with the only difference being in the size of denomination of the currency given and returned.
- The payment made was for a definite purpose, viz. return after due conversion into currency of higher denomination, so as to facilitate depositing of the same into bank account. That being so, the provisions of section 40A(3) are not attracted to this amount.

Advance to facilitate expenditure

- At the point of making the advance, advance account is debited and cash account is credited, and whenever expenditure is incurred, advance account is credited by such amount of expenditure. That being so, at the point of time, when an advance is given for incurring the expenditure, there is no outgo of funds of the company, and the actual outgo takes place only when expenditure is actually incurred by MD or such other person to whom he passes on such sums for incurring expenditure on behalf of the assessee.
- Considering the nature of the advance and the purpose for which it is given, and the accounting treatment given by the assessee in the books of account, it is found that the provisions of section

40A(3) are not applicable even to the amounts of advance given by the assessee to MD or by MD to other employees for incurring expenditure on behalf of the assessee company.

- Further, a company being an artificial person, it cannot incur expenditure or do anything on its own, and any expenditure has to be incurred or any act or transaction has to be done only through its directors or employees.
- In the instant case, the process prior to actual incurring of expenditure or doing any act through the Managing Director or other employees is also recorded in the form of advances given, etc. Unless and until the amount of such advance is in fact spent towards any expenditure incurred on behalf of the assessee-company, the money effectively do not go out of the coffers of the assessee-company, and it is only the outgo of funds in the form of expenditure exceeding Rs. 20,000 in cash at a time, out of the coffers of the company, that attracts the provisions of section 40A(3).
- It is not disputed that the amount in question has not been debited to the Profit & Loss Account. That being so, the Commissioner (Appeals) is justified in deleting the disallowance made by the Assessing Officer in terms of section 40A(3). Accordingly, the order of the Commissioner (Appeals) is to be upheld.
- In the result, the revenue's appeal is dismissed.