

Sudden payment of commission to an employee for his routine work wasn't justifiable; HC confirms disallowance

Summary – The High Court of Punjab & Haryana in a recent case of Romesh Kumar, (the Assessee) held that commission paid to employee was not allowable where there was no material on record to prove that there was any contribution made by said employee, more than his liaison work, to assessee's business to justify payment of huge commission to him.

Facts

- The assessee-company claimed deduction on account of commission paid to its employee.
- The Assessing Officer found that said employee was relative of assessee and working on salary. No such commission was earlier paid to him and that there was no change in his job. The Assessing Officer also noticed that there was no material on record to prove that there was any contribution made by said employee, more than his liaison work, to the assessee's business to justify payment of huge commission to him. It was on the basis of these observations that the Assessing Officer had disallowed the commission claimed in both the assessment years holding that the commission had been paid on non-business grounds and was a device to reduce the assessee's taxable income.
- The Commissioner (Appeals) confirmed the Assessing Officer's order.
- The Tribunal had held that claim on account of commission was not tenable and the same came to be rightly rejected.
- On further appeal:

Held

- All the three revenue authorities on facts had come to one and the same conclusion and there is concurrent finding that payment of commission shown in books of account of the assessee was merely a subterfuge to reduce the tax liability of the assessee. It is to be noticed that the Tribunal had re-assessed the entire issue and without being influenced by the earlier two concurring findings, had independently also come to finding that the claim on account of commission by the assessee was not tenable in the assessment years under appeal and that it had rightly been rejected.
- As the entire issue in these appeals concerns facts and attending circumstances and there is nothing legal much less substantial to be adjudicated upon, no substantial question of law, in fact, arises for consideration in these appeals.