

## Even MAT companies are liable to pay interest under section 234C for deferment of advance tax

**Summary – The High Court of Kerala in a recent case of Hotel and Allied (P) Ltd., (the Assessee) held that deductions under section 80HHD would be computed by taking assessee's all hotel units together**

**Interest under section 234C can be charged on tax calculated on book profit under section 115JA(1)**

**Interest from bank and other dividends is to be assessed only as income from other sources and not as business income of assessee**

### JUDGMENT

It is not in dispute that the appellant-assessee is a company engaged in hotel business in different units at Kumarakam, Cochin and Bangaram Islands. The assessment year in question is 1997-98. Before the Assessing Officer several deductions were claimed. The controversy before us only pertains to Rs. 1,95,243 as income from other sources, deductions alleged to have been wrongly worked out under section 80HHD by taking all other units together and so also a sum of Rs. 23,350 was levied as interest under section 234C of the Income-tax Act. Aggrieved by the same, the appellant is before us challenging the orders of the Appellate Tribunal.

**2.** So far as the claim under section 80HHD pertaining to the very same assessee an issue came up before this court which went against the appellant-assessee as per the decision of this court in *Hotel & Allied Trades (P.) Ltd. v. Dy. CIT (Assessment)* [\[2007\] 294 ITR 67/163 Taxman 11](#). Placing reliance on the same, the Tribunal rejected the claim of the assessee. It is not in dispute that the earlier judgment of this court is pending consideration in civil appeal before the apex court. However, no interim order of any nature is granted, though it is admitted that the appeal is of the year 2010. Therefore, there is no irregularity or illegality so far as the Tribunal placing reliance on the earlier decision of this court.

**3.** Then coming to the levy of interest under section 234C, in the latest decision of the apex court in *Jt. CIT v. Rolta India Ltd.* [\[2011\] 330 ITR 470/196 Taxman 594/9 taxmann.com 36](#), the controversy is concluded opining that interest can be charged on the tax calculated on book profit under section 115JA(1), etc.

**4.** Then coming to the income from other sources with regard to Rs. 1,95,243, the Tribunal was justified in saying, in the light of the special and specific provision under section 56 of the Income-tax Act the interest from bank and other dividends need to be assessed only as income from other sources and not the business income of the appellant-assessee. So far as disallowance of club expenses, the matter is

remanded back to the Assessing Officer to ascertain whether it was paid towards membership fee or otherwise. The Tribunal has gone into each and every controversy raised properly, taking into account the material on record and also law applicable therein. We do not find any good ground to interfere, accordingly, the appeal is dismissed.