

Short deduction of tax due to application of wrong provision won't lead to sec. 40(a)(ia) disallowance

Summary – The Cochin ITAT in a recent case of Three Star Granites (P.) Ltd., (the Assessee) held that Short deduction of tax cannot be reason for disallowance under section 40(a)(ia)

Facts

- The Tribunal held that the assessee had to deduct tax under section 194-I and the provisions of section 194C were not applicable in respect of transactions between the assessee and the contractee.
- On appeal, the High Court confirmed the order of the Tribunal.
- However, the High Court for the limited purposes of applicability of section 40(a)(ia) in respect of short deduction of tax at 2.06 per cent instead of 10 per cent, restored the matter back to the file of the Tribunal.
- On remand, the revenue contended that, for the short deduction of TDS, there would be disallowance under section 40(a)(ia).

Held

- In view of the decision of this Tribunal in the case of *Apollo Tyres Ltd. v. Dy. CIT* [\[2013\] 60 SOT 1/35 taxmann.com 593 \(Coch.\)](#) short deduction of tax cannot be a reason /basis for disallowance under section 40(a)(ia). Accordingly, the orders of the lower authorities are to be set aside and the disallowance made under section 40(a)(ia) is to be deleted.