

Compounding fee paid to municipality on deviation from sanctioned plan was in nature of penalty, disallowable

Summary – The High Court of Punjab & Haryana in a recent case of Nahar Spinning Mills Ltd., (the Assessee) held that Amount paid by assessee to Municipal Corporation on account of compounding fee as compensation for condoning deviations from original sanctioned plan being in nature of penalty would not be allowable as deduction in view of Explanation to section 37(1).

Facts

- During relevant year, assessee paid certain amount to municipal corporation as compensation for condoning deviations from original sanction and accepting revised plan of construction.
- The assessee's claim for deduction of said payment was rejected by revenue authorities taking a view that it was in the nature of penalty for infraction of law.
- The Tribunal confirmed the disallowance made by authorities below.
- On appeal:

Held

- In substance, the payment was in the nature of the amount paid on account of infraction of law as there was violation in the building plan of the assessee.
- Further, Finance (No. 2) Act, 1998 had incorporated Explanation to section 37(1) which was made retrospectively with effect from 1-4-1962.
- According to the Explanation, expenditure incurred for any purpose which is an offence or which is prohibited by law, is not entitled for deduction. Thus, the amount paid by assessee to Municipal Corporation on account of compounding fee as compensation for condoning deviations from original sanctioned plan in view of the Explanation to section 37(1) would not be admissible.