

## **Sum paid without deduction of tax shall not be disallowed if payee files Form No. 15G/H belatedly**

**Summary – The Bangalore ITAT in a recent case of Capital Pharma., (the Assessee) held that Section 40(a)(ia) is not applicable where assessee had not deducted tax at source as it was well aware that recipient had no taxable income, though declarations in Form 15G/H were obtained late.**

### **Facts**

- During relevant year, the assessee made payment of interest to certain persons without deducting tax at source.
- The Assessing Officer disallowed those payments by invoking provisions of section 40(a)(ia).
- The Commissioner (Appeals) confirmed said disallowance.
- The assessee filed instant appeal contending that recipients of interest income had furnished Form 15G/H and thus, it had no obligation to deduct tax.

### **Held**

- It was undisputed that assessee had obtained Form 15G/H form from the recipients, though filed belatedly. Irrespective of the date of filing these forms, assertion made therein by the payees that they were not having taxable income or were having income below taxable limits has not been found to be incorrect.
- When assessee was well aware that recipients had no taxable income, just because declarations in Form 15G/H were obtained late, assessee could not be fastened with the consequences that arose for non-deduction of tax at source under section 40(a)(ia) while making payment of interest of the assessee that would attract the rigours of section 40a(ia). In the circumstances, the disallowance made under section 40a(ia) is deleted.