

## Sum received for five-year maintenance contract of equipments couldn't be taxed in one assessment year

**Summary – The High Court of Delhi in a recent case of Smt. Paramjeet Luthra, (the Assessee) held that Entire amount of commission received on sale of medical equipments could not be offered for taxation in one assessment year when assessee had future obligation of maintenance service and necessary expenditure required for same**

### Facts

- The assessee had undertaken liaisoning work of sale of medical equipments, etc., and had received a commission of Rs. 1.41 crores. As the assessee had to provide comprehensive warranty for first 5 years, including spare on the medical equipments sold to the customers, *i.e.*, government hospitals and trouble free annual maintenance of equipments without spares for the further/next 5 years, she treated 39 per cent of the total commission as maintenance contract income and excluded same from the returned income of assessment year in question. Rather, assessee had offered the said amount for tax in proportionate basis, in 5 assessment years as the corresponding or necessary expenditure would be incurred in the said span of 5 years.
- The Assessing Officer did not accept the said submission and made addition of said amount by invoking provisions of section 68.
- On appeal, the Commissioner (Appeals) called for a remand report from the Assessing Officer and after considering same held that the entire income could not be offered for taxation in one assessment year when the assessee had the future obligation of maintenance service and the necessary expenditure required for the same.
- On second appeal, the Tribunal affirmed the findings of the Commissioner (Appeals).
- On appeal to the High Court:

### Held

- In the remand report the Assessing Officer had reported that expenditure made for the maintenance of equipments in the subsequent years was adjusted against the provisions made for equipments maintenance by the assessee and the provisions for equipment maintenance for assessment years 2006-07, 2007-08 and 2008-09 were verified by the Assessing Officer. The aforesaid calculations had been made on scientific basis and the balance amount was offered for taxation in the subsequent years.
- In *Rotork Controls India (P.) Ltd. v. CIT* [\[2009\] 314 ITR 62/180 Taxman 422 \(SC\)](#), the Supreme Court observed that a "provision" is a liability which can be measured only by using a substantial degree of estimation. A provision is recognized when: (a) an enterprise has a present obligation as a result of a past event; (b) it is probable that an outflow of resources will be required to settle the obligation;

and (c) a reliable estimate can be made of the amount of the obligation. A past event that leads to a present obligation is called as an obligating event.

- Finally, invoking section 68 was not warranted. The source of money and genuineness of credit entry of amount of commission was never doubted. Thus, addition was not relatable to section 68.
- In view of the aforesaid, there is no merit in the appeal and the same is dismissed.