

Club subscription paid by Co. on behalf of its managing director was personal exp; disallowable under Sec. 37(1)

Summary – The High Court of Bombay in a recent case of Schindler India (P.) Ltd., (the Assessee) held that Expenditure incurred by assessee for creating manufacturing facility of elevator in India being in nature of capital expenditure, assessee's claim for deduction in respect of same under section 37 (1) could not be allowed

Club subscription paid by assessee on behalf of its managing director being in nature of personal expenditure, could not be allowed as deduction

Facts

- The assessee was assembling the components imported from abroad. Thereafter there was a change in the policy. The assessee therefore started looking out for Indian suppliers of the components which were used in the making of the elevator.
- The assessee claimed deduction of expenditure incurred on purchased of material (together with customs and freight), training of personnel, analysis of data etc.
- The revenue authorities rejected assessee's claim holding that materials were purchased for creating manufacturing facility and thus it was in the nature of capital expenditure.
- The Tribunal confirmed the order of authorities below.

Held

- It was noted that the whole attempt is to seek re-appreciation and re-appraisal of the factual materials. Upon scrutinizing the entire material produced, both, the Commissioner (Appeals) and the Tribunal held that the majority of the expenditure is on account of materials used for development of prototype and other components, the utilized costs of the material used by the appellant in the new project. The authorities found that assessee had created a facility of procuring components of the elevator through local vendors. Earlier these components were procured by importing and there was no manufacturing facility in India, though the same was created for that purpose. Testing towers had been erected and the expenditure incurred on the testing of elevator had already been capitalized by the assessee. Once the finding of fact is that all the materials are for creating the manufacturing facility and which has definitely an enduring benefit, namely for a long time, then, it is not something that the appellant can claim to be a temporary or transitory one. The reasoning in the order of the Tribunal goes to show that the Tribunal has applied the correct tests and rejected the relief.
- Thus, the appeal does not raise any substantial question of law and it deserves to be dismissed.