

No TDS on sum paid for extra cost incurred by contractor due to delay in completion of work by sub-contractor

Summary – The High Court of Gujarat in a recent case of Karnavati Infrastructure (P.) Ltd., (the Assessee) held that Amount paid by sub-contractor to main contractor on account of extra costs that main contractor had to incur due to delay in completion of work by sub-contractor was not liable to TDS under section 194C

Facts

- The assessee was a sub-contractor of Unitech (Principal contractor). It did not deduct TDS on payment to Unitech on account of extra cost that Unitech had to incur due to delay in completion of work taken by assessee.
- The Assessing Officer treated such payment as interest and made an addition under section 40(a)(ia) on account of non-deduction of TDS thereon.
- On appeal, the Commissioner (Appeals) deleted the addition.
- The Tribunal dismissed the revenue's appeal.
- On appeal to the High Court:

Held

- From the facts as recorded by the Commissioner (Appeals), with which the Tribunal has concurred, it is apparent that the amount in question was paid because of the extra costs that Unitech had to incur because the assessee could not complete the work taken on sub-contract from Unitech. Substantial evidence was produced by the assessee in support of its case. The conclusion arrived at by the Tribunal is based upon concurrent findings of fact recorded by it after appreciating the evidence on record. In the absence of any perversity being pointed out in the findings recorded by the Tribunal, no question of law, much less, a substantial question of law can be said to arise therefrom, so as to warrant interference.