

## **No disallowance of contribution to PF just because PF wasn't recognized by Jurisdictional CIT**

**Summary – The High Court of Madras in a recent case of Tamil Nadu State Transport Corporation (Salem) Ltd., (the Assessee) held that Contribution made by assessee in pension fund could not be disallowed on ground that same was not recognised by Jurisdictional Commissioner, as under section 36(1)(iv) it is nowhere mentioned that pension fund should be recognised only by Jurisdictional Commissioner and that approval of Jurisdictional Commissioner is mandatory**

### **Facts**

- The Commissioner found that the assessee had not made application for recognition of the Pension Fund Trust to the Commissioner/Chief Commissioner, Salem, as per Part A of Schedule IV and, therefore, the payments made to the pension fund trust had to be disallowed.
- Aggrieved by the said order, the assessee preferred appeal to the Tribunal. The Tribunal held that section 36(1)(iv) dealing with contribution to a recognised pension fund does not lay down any condition that the said pension fund should be approved by the Jurisdictional Commissioner.
- On appeal:

### **Held**

- It is not in dispute that the Pension Fund Scheme has been jointly floated by the State Transport Corporations, as has been recorded by the Tribunal. The Tribunal has recorded a finding that State Transport Corporations operating in different districts in the State are signatories to the Trust Deed for setting up the Pension Fund Scheme. It is also not in dispute that the said fund has been recognised by the Commissioner-VII, Chennai. A cursory reading of section 36(1)(iv) would reveal that nowhere in the said provision it is stated that the pension fund should be recognised by the Jurisdictional Commissioner. There is no manner or intentment in the said provision which justifies the stand of the department that the pension fund should be recognised only by the Jurisdictional Commissioner and that the approval of the Jurisdictional Commissioner is mandatory. The department cannot disallow the assessee of the contributions made to the pension fund on the ground that the pension fund has not been recognised by the Jurisdictional Commissioner.