

## Stamp duty paid in relation to contract couldn't be amortized over period of contract; HC allows full deduction

**Summary – The High Court of Gujarat in a recent case of Prithvi Associates., (the Assessee) held that Stamp duty being a compulsory statutory levy not restricting profits of future years, should be allowed in its entirety in year it is incurred**

### Facts

- The assessee paid stamp duty in relation to contract executed with Maharashtra State Road Transport corporation.
- The Assessing Officer disallowed said expenses.
- On appeal, the Commissioner (Appeals) observed that the assessee was duty bound to pay stamp duty as per the provisions of section 34 of the Bombay Stamp Act, 1958 and, thus, the payment of stamp duty was not for business expediency but it was in the nature of a compulsory levy under the Bombay Stamp Act. The Commissioner (Appeals) further observed that the stamp duty paid was compulsory levy and ordinarily revenue expenditure incurred wholly and exclusively for the business purpose. Therefore, it must be allowed in its entirety in the year in which it was incurred and it could not be spread over a number of years.
- On further appeal, the Tribunal, however, upheld the order of the Assessing Officer.
- On appeal before the High Court:

### Held

- The payment of stamp duty is not for business expediency but it is in the nature of a compulsory levy under the Bombay Stamp Act. It is legally settled that accounting practice cannot over ride the provisions of the Income-tax Act, 1961. Stamp duty paid by the appellant during the year under consideration is a compulsory statutory levy and would not restrict the profits of the future years and ordinarily revenue expenditure incurred wholly and exclusively for the purpose of business must be allowed in its entirety in the year in which it is incurred and it cannot be spread over a number of years. If any statutory expense is required to be paid, in view of decision of the Apex Court in *India Cements Ltd. v. CIT* [\[1966\] 60 ITR 52](#), such expense is required to be allowed in the same year. The Apex Court in the case of *Taparia Tools Ltd. v. Jt. CIT* [\[2015\] 372 ITR 605/231 Taxman 5/55 taxmann.com 361](#) also observed that as per the ordinary rule revenue expenditure incurred in a particular year is to be allowed in that year. Thus, if the assessee claims that expenditure in that year, the department cannot deny it. However, in a case where the assessee himself wants to spread the expenditure over a period of ensuing years, it can be allowed only if the principle of 'matching concept' is satisfied, which upto now has been restricted to cases of debentures.

Therefore, it is rightly observed by the Commissioner (Appeals) that the expense is required to be allowed in the same year.

- In view of above, the Tribunal has committed an error in law in confirming the disallowance of Rs. 12,28,560 towards stamp duty expenses actually incurred by the appellant for executing contract with Maharashtra State Road Transport Corporation. Accordingly, this appeal is allowed.