

No involvement of perquisites just because employer was paying fixed monthly medical allowances

Summary – The High Court of Gujarat in a recent case of Gujarat Alkalies & Chemicals Ltd., (the Assessee) held that Reimbursement of medical expenditure incurred by employee on himself or family or upto a ceiling of Rs. 15,000, would not be included in term 'perquisite' under section 17(2)

Facts

- The assessee-company had the structure of paying fixed monthly medical allowances to its employees as per rates prescribed for different categories of employees. This payment had no relation to the medical expenditure actually incurred by employee for himself or family.
- The Assessing Officer held that this amount would form part of 'perquisite' as referred to in section 17(2) and invited requirement of deducting tax at source.
- The Tribunal reversed the decision of the Assessing Officer.
- On the revenue's appeal before the High Court:

Held

- Section 17(2) refers to term 'perquisite' as to include range of benefits to be paid by the employer to the employees. Proviso to said sub-section, however, provides that nothing in this clause shall apply to in clause (v) where any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or the treatment of any member of his family, so, however that such sum does not exceed Rs. 15,000/- in the previous year. Thus, reimbursement of medical expenditure actually incurred by the employee on himself or his family or upto a ceiling of Rs. 15,000/- would not be included in the term 'perquisite'. This is precisely what are the facts in the present case. The revenue does not contend that the ceiling of Rs. 15,000/- was breached. Prime objection of the revenue appears to be the fixed reimbursement commensurate with the level of the employee irrespective of the demand for medical reimbursement. The company, however, when ensured that such reimbursement was not in excess of actual expenditure incurred by the employees, this objection of the revenue also cannot survive.
- In the result, tax appeal is dismissed.