

Loss incurred in chit-fund would be deductible if funds were raised for business purposes

Summary – The Lucknow ITAT in a recent case of Kamal Raheja, (the Assessee) held that If a subscriber incurs loss in subscribing to chit fund to raise funds to use them in his business or for business purpose, such a loss is an allowable deduction

Where Assessing Officer disallowed on ad hoc basis expenses claimed by assessee under head conveyance and entertainment by assuming that there was disproportionate increase, since section 37(1) nowhere empowers Assessing Officer to disallow expenditure in abovesaid manner and expenses had been incurred wholly and exclusively for purpose of business, disallowance of said sum should be deleted

Facts

- The assessee incurred the chitty loss and claimed the same as deduction.
- The Assessing Officer disallowed the same and added the same in the income of the assessee.
- On appeal:

Held

- The assessee subscribed to various chitties and the chits were bid for raising funds, for business purposes of the firm. The chit instalments were being paid on the due dates and when the chitty was terminated, the balance represented interest was treated as chitty loss and written off in the profit and loss account. The object of subscribing to a chitty was to finance the business and not for saving money by the subscriber. Usually the subscriber will join a chitty and after remitting certain instalments he would bid it and the money so obtained would be utilised for the purpose of business. It is a means of raising finance at easy means without paying interest and at a discount and this discount foregone after deducting the discount received for the loss of a subscriber and so it was a business loss.
- In these days it has become very common for the business class as well as the general investors to contribute to chit fund companies and subscribe to various chits for raising finances. In a chit fund scheme, every member subscribes a certain sum of money periodically by way of instalments over a determined period of time and each subscriber gets a sum determined by a chit fund company during the tenure of the chit or at the time of completion of chit. The subscriber who receives the money in the earlier period receives a lesser amount as compared to the subscribers who receive the amounts in later periods. The scheme of the chit fund companies is covered by the Chit Fund Act, 1982 which is enacted to have a control on the operation of Chit Fund Companies and to protect the interests of the subscribers to a chit fund company.

- It was contended that there is a concept of mutuality in subscribing to the chit fund. The nature of chit fund companies suggests that all the members participate together and make contributions to the chit fund and the company distributes the prize money amongst the members in a prescribed manner. The identity of all the contributors of the Chit Fund is established and it can be presumed that the chit fund concept is based on the concept of mutuality.
- The Central Board of Direct Taxes also issued instructions, Instruction No.1175 issued by the CBDT under order F. No. 169/21/78-IT (80) dated May16, 1978.
- In accordance with the Instruction No. 1175, it is obvious that if a subscriber incurs loss in subscribing to the chit fund to raise funds to use them in his business or for the business purpose, such a loss is an allowable deduction. In this view of the matter, the order of the Commissioner (Appeals) on this issue is set aside.