

TDS disallowance to be made even if no sum payable at year-end; HC follows Apex court's decision

Summary – The High Court of Jammu & Kashmir in a recent case of Manzoor Ahmed Walvir, (the Assessee) held that Section 40(a)(ia) covers not only those cases where amount remains payable at end of year but also where it has already been paid without deducting tax at source

Facts

- The assessee made payments in respect of dyeing, printing, embroidery, finishing and bleaching charges. Deductions were claimed in respect thereof to the extent of Rs. 6.04 crores. The Assessing Officer disallowed the said payment on account of default on the part of the assessee in not deducting TDS in terms of section 194C.
- The Commissioner (Appeals) reduced the disallowance to Rs. 1.87 crores on the ground that the said amount was found to be payable at the end of the year and the rest of the amount which had been paid during the year was eligible for deduction.
- The Tribunal upheld the order passed by the Commissioner (Appeals).
- On revenue's appeal:

Held

- In the case of *Palam Gas Services v. CIT* [\[2017\] 394 ITR 300/247 Taxman 379/81 taxmann.com 43](#), the Supreme Court concluded that section 40(a)(ia) covered not only those cases where the amounts were payable but also where it was paid. Consequently, the revenue's appeal is allowed, the result whereof would be that the view taken by the Assessing Officer of disallowance of Rs. 6.04 crores is upheld.