

Insurance premiums paid for family members of employee's deductible if those were paid as per service agreement

Summary – The Delhi ITAT in a recent case of Loesche India (P.) Ltd., (the Assessee) held that where assessee had paid insurance premiums of employees' family members in terms of employment rules framed by assessee-company therefor, same was to be allowed as business expenditure

Facts

- The assessee claimed an amount of Rs. 15.48 lakh on account of medical insurance. Since an addition of Rs. 10.91 lakh during assessment year 2009-10 in the case of the assessee-company was made in respect of payment of medical insurance premium covering the family members of the employees, *vide* further questionnaire, the assessee-company was further required to furnish details of the relations in respect of whom premium has been paid and to show cause why premium paid for insurance of relatives of employees be not disallowed (being gratuitous, not on commercial lines,) since obligation of employee was being met by employer. As per the appellant the expenditure incurred towards health insurance premium of family of employees was claimed as allowable expenditure under section 37 as the same had been incurred wholly and exclusively for the purposes of the business. The Assessing Officer found from a perusal of the list of persons with respect to whom the medical insurance premium had been incurred that the amounts had been incurred, leave *apart immediate family* members, towards the medical insurance of Mother-in-Law of the Managing Director, leave apart his independent children, and also towards the married sisters of the other directors of the company. He held that under the guise of medical premium with respect to family members, not even the direct but also the indirect and distant relatives of the key managerial persons were being benefited. According to the Assessing Officer the appellant had adopted an inequitable and unreasonable system by bearing the medical insurance expenses of only the relatives of key managerial persons and their distant family members. The Assessing Officer was also of the view that the instant benefit was not for achieving the purpose of corporate social responsibility but it was to benefit a few selected employees. Even otherwise since the employees had not offered what amounted to be perquisites in their hands under section 17(2)(iv), he was of the view that these were not business expenses qualifying for deduction under section 37(1).
- On appeal, the Commissioner (Appeals) sustained the addition made by the Assessing Officer.
- On appeal:

Held

- The record reveals that the assessee had paid the insurance premiums of the employees' family members in terms of employment Rules framed by the assessee-company therefor. Therefore, it can hardly be said that the impugned expenditure were not incurred wholly and exclusively for the

purpose of business, which is the real intent of section 37(1). The authorities below could not bring any evidence on record to substantiate that the payments so made by the assessee-company had no nexus with the business of the assessee. Even otherwise, it is not necessary that all the payments/expenditure incurred by the assessee should have direct bearing on earning of income, but some payments are also made under certain business expediency. In the instant case, the payments claimed to have been made by the assessee for the insurance premium of such members who have attained the age of 21 years or more or who are the remote relations of assessee have already been offered by the assessee to tax before the Commissioner (Appeals), as also noted in the written submissions. The authorities below appear to have rejected the claim of the assessee that these payments were in the nature of perquisites to the employees as contemplated under sub-clause (iv) of section 17(2), according to which any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee, shall be included in perquisites. However, in view of proviso (iii) & (iv) appended to this section clearly prohibit the application of section 17(2) in certain eventualities as contained in these provisos. In view of attending facts and circumstances of the case and the provisions of law, noted above, there is no justification in the findings reached by the authorities below for rejecting the deduction of impugned expenditure claimed by the assessee. Therefore, there is no justification to discard the impugned claim of assessee made under section 37(1). Accordingly, the appeal of the assessee deserves to be allowed.