

## No deduction towards acquisition of satellite distribution rights if films weren't exhibited on commercial basis

**Summary – The High Court of Kerala in a recent case of Malayala Manorama Co. Ltd., (the Assessee) held that where assessee's claim for deduction under rule 9B(4) in connection with acquisition of satellite distribution rights of three Malayalam films was rejected on ground that there was no exhibition of films on commercial basis during period of acquisition or in next year, in view of fact that feature films were never exhibited and there was no amount credited in profit and loss account of assessee as amount received on exhibition of films, impugned disallowance, was to be confirmed**

### Facts

- During relevant year, the assessee claimed deduction under rule 9B(4) in connection with the acquisition of satellite distribution rights of three Malayalam films.
- The Assessing Officer rejected assessee's claim for the reason that there was no exhibition of the films on commercial basis during the period of acquisition or in the next year.
- The Tribunal upheld the order passed by Assessing Officer.
- On appeal:

### Held

- Rule 9B(5) starts with a *non obstante* clause. Under the said rule, it is laid down that deduction under rule 9B shall not be allowed unless the distributor credits in the books of account, the amounts realised by the distributor in case where the distributor himself has exhibited the film on commercial basis. The assessee was therefore required to credit the amount realised by him by exhibiting the film in the profit and loss account. Hence the deduction is permissible under rule 9B only if the film has been commercially exploited and an income received. Sub-rule (4) of rule 9B only permits carrying forward of the cost of acquisition to the next year for the purpose of claiming deduction, which can be claimed only if there is income generated by the film and the same is credited to the books of account as provided in the overriding sub-rule (5) of Rule 9B. There can be no deduction permissible on the cost of acquisition without generation of income credited in the books of account. The subject films were never commercially exploited and generated absolutely no income.
- It is an admitted case that the feature films were never exhibited and there was no amount credited in the profit and loss account of assessee as amount received on exhibition of films. The finding of the Appellate Authority as well as the Tribunal is therefore, to be upheld.