

## Having an Agreement with related party is not enough to claim allowance of Research & advisory fees

**Summary – The High Court of Madras in a recent case of Patterson & Co. (P.) Ltd., (the Assessee) held that having an Agreement with related party is not enough to claim allowance of Research & advisory fees**

### Facts

- The assessee-company, engaged in business of share broking, paid certain amount to its sister concern as research and advisory fees towards business procurement, research and advisory services.
- The Assessing Officer found that in the sister concern, one of the directors of the assessee-company, had substantial interest and, thus, payment made was to a person as specified in section 40A(2)(b)(v). The Assessing Officer required the assessee to establish that services were actually rendered by the sister concern.
- The assessee could not produce any document to prove that the services were actually rendered and stated that the payment was solely based on the copy of agreement executed between the assessee-company and sister concern. The Assessing Officer held that such payments were not made for business purposes and payment made to a related party were clearly unreasonable. The Assessing Officer disallowed payment made by the assessee company.
- On appeal, the Commissioner (Appeals) allowed the advisory fees paid by the assessee and deleted the addition.
- On further appeal, the Tribunal reversed order of the Commissioner (Appeals) holding that the assessee did not produce any documentary evidence to prove genuineness of transaction and that same was paid to sister concern.
- On the Revenue's appeal to the High Court:

### Held

- The HC stated that it cannot be contended that merely because there was an agreement between the assessee company and the related party, the Research and Advisory fees made by the assessee should be allowed as a business expenditure. It will totally depend upon the facts and circumstances of the case whether disallowance under section 40A(2)(ab) could be made or not.
- The Tribunal has wider powers of the lower Appellate Authority and, therefore, reversal of the CITA order by the Tribunal cannot be declared to be perverse.
- Since there are no questions of law in the instant case, there is no merit in the contentions raised on behalf of the appellant/assessee on the facts of the case and therefore, the instant appeal of the assessee is to be dismissed.