

Deduction of preliminary expenses allowed to assessee engaged in service sector: HC

Summary – The High Court of Delhi in a recent case of Indian Railway Stations Development Corporation Ltd., (the Assessee) held that Deduction of preliminary expenses would be allowed to assessee engaged in service sector

Facts

- The assessee-company had set up a business and various preliminary expenses were incurred which included appointment of key personnel, preparation of draft Agreements and initiation of process to tender financial and advisory services.
- The assessee filed its return claiming the expenses on account of depreciation, preliminary expenses and employee's remuneration.
- The Assessing Officer noted that there was no business activity even though key personnel were engaged and rejected assessee's claim for deduction.
- The assessee filed a revision petition which was dismissed by the Principal Commissioner.
- On writ:

Held

- The HC stated that there is no procedure that can be determinative as to when business commences. In case of the service sector, where the entity has involved itself in various kinds of steps, even if some of them are preliminary to the main venture, a link between these preliminary and main venture maybe a relevant factor to be taken into account.
- Keeping in mind the above the HC held that the assessee's activity which was claimed to be preliminary steps towards the fulfilment of the main purpose clearly indicate that it had set up its business and these steps were for the ultimate fulfilment of its main purposes.
- The Assessing officer as well as the Principal Commissioner were not right in holding otherwise. Hence the writ petition was allowed and the order of the Commissioner, as well as the Assessing Officer were set aside.