

Sum contributed to trusts created for health care of retired employees - No sec. 40A(9) disallowance

Summary – The High Court of Bombay in a recent case of State Bank Of India., (the Assessee) held that where Sums were contributed to trusts created for health care of retired employees, there will not be any Sec 40A(9) disallowance.

Facts

- For relevant year, the assessee's claimed deduction of expenditure towards contribution to a fund created for the health care of the retired employees.
- The revenue authorities opined that such fund not being one recognized under section 36(1)(iv) or (v), claim of expenditure was hit by the provisions of section 40A(9).
- The Tribunal thus allowed the assessee's appeal and deleted the disallowance made by authorities below.
- On revenue's appeal:

Held

- Sub-section (9) of section 40A disallows deduction of any sum paid by an assessee as an employer towards setting up of or formation of or contribution to any fund, trust, company etc. except where such sum is paid for the purposes and to the extent provided under clauses (iv) or (iva) or (v) of sub-section (1) of section 36 or as required by or under any other law for the time being in force.
- Sub-section (9) of section 40A was inserted to restrict the claim of expenditure by the employers towards the welfare and the benefit of the employees.
- In view of aforesaid, it is held that the Tribunal had correctly allowed the assessee's claim of expenditure. In the result, the ground of appeal raised by revenue is dismissed.