No disallowance u/s 40(a)(ia) for short/wrong deduction of TDS [Sec 40 of ITA'61 – Sec 35 of ITA'25]

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Incase a person deducts TDS short of the required amount, no doubt he is to be considered as an assessee in default as per provisions of sec. 201 but disallowance of the expenditure is not permissible u/s. 40(a)(ia) of Income Tax Act. Section 40(a)(ia) lays down as under -

(ia) thirty percent. of any sum payable to a resident, on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, 16[has not been paid on or before the due date specified in sub-section (1) of section 139],-

Hence the following cases would not fall under Section 40(a)(ia) disallowance –

A. TDS deducted under a Section at a rate lesser than prescribed. ADVAIT AGROTECH PRIVATE LIMITED Vs PRINCIPAL COMMISSIONER OF INCOME TAX [2023-VIL-791-ITAT-AHM]

B. TDS deducted under Another Section (say 192) instead of the section required (say 194J) - Gujarat High Court in the case of CIT Vs. Prayas Engineering Ltd. in Tax Appeal No. 1237 of 2014 vide order dated 17/11/2014.

LET'S DISCUSS FURTHER!

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