

Relief to Karur Vysya Bank: ITAT allows Income Tax Deduction on Education Cess

Fact of the Case

1. In the present case the appellant is a private sector bank carrying on banking business, filed its return of income for the assessment year 2013-14 declaring total income of Rs.546,50,55,480/- and said return was subsequently revised and declared a total income of Rs.523,99,52,160/- & Rs.516,82,49,970/- respectively
2. The issue raised was in respect of deductibility of Education Cess and Secondary & Higher Education Cess.
3. The assessee has filed a petition for admission for additional ground and argued that the issue raised in the petition is purely a legal issue, which can be raised at any stage of proceedings including appellate proceedings before the Tribunal. In this regard, placed his reliance on the decision of the Hon'ble Supreme Court in the case of National Thermal Power Company Ltd., vs. CIT.
4. The revenue on the other hand strongly opposed the petition filed by the assessee for admission of additional ground and argued that the assessee has failed to prove the fact, of all relevant materials available before the AO to admit additional ground and hence, additional grounds filed by the assessee may be rejected.

Decision of the Case

1. The coram of judicial member explained the matter in the light of the decision of honourable Bombay High Court in the case of Sesa Goa Ltd. Vs JCIT.
2. Therefore it was in opinion that Education Cess and Secondary & Higher Education Cess is deductible u/s.37(1) of the Act. But, facts remain that the assessee has taken this issue for the first time by filing additional ground and the fact with regard to said claim was not before the AO at the time of assessment proceedings
3. Hence, the issue was set aside to the file of the AO and directed to reconsider the issue in accordance with law and also by considering the ratio laid down by Hon'ble Bombay High Court.