ito Vs. Apurva P. Patel

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Court : Income Tax Appellate Tribunal ITAT Mumbai

Decided On : Feb-17-2006

Reported in : (2006)7SOT755(Mum.)

Appellant : ito

Respondent : Apurva P. Patel

Judgement :

In these three appeals filed by the assessce, the common issue involved is, as to whether the expenditure incurred by the assessee on higher studies on professional education is allowable or not. The disallowance of the claim of expenditure in three years is as under : The facts giving rise to these appeals are that the assessee is a Chartered Accountant (CA). He completed his C.A. in 1994 and article ship in 1995. He claims that he is an all India rank holder with certificate of merit. His profession is of consultancy in management, finance and investment Banking. The assessee, while carrying out his profession, proceeded to USA for doing MBA between August 1996 and May 1998. During August 1996 to May 1998, assessee did not get any employment in USA but from August 1998, he started earning salary income from employment in USA. The assessee visited India during this period. He had filed return of income showing income from profession as under: During the period of study, the assessee incurred expenditure on higher professional studies for fees, air fare, living and maintenance expenses. The entire expenditure was incurred by payment through Bank.

The expenditure on studies was incurred during the study period out of the remittance from India. The said expenditure was incurred mainly out of income from profession earned in India and loan scholarships. There was no break in carrying on the profession all throughout the period.

The assessing officer disallowed the claim on the ground that assessee's basic qualification of his is that of C.A. and he has gone for higher studies to USA to get a new degree of MBA which is all together a different degree. The benefit derived from the new degree will be for a longer time. It is an asset and it is an advantage of enduring nature. It will increase his income earning capacity, better contacts and higher fees and, therefore, it is a capital expenditure.

The assessing officer relied on the decision of the Hon'ble Bombay High Court in the case of CIT v. Hindustan Hosiery Industries (1994) 209 ITR 383, wherein expenditure incurred by the firm for higher studies to USA was not allowed as business expenditure as there was no nexus between the expenditure and the business of the assessee. Further, according to assessing officer, this expenditure is of personal in nature and cannot be allowed. On the other hand, the learned Commissioner (Appeals) allowed the claim of the assessee as under: "I agree with the contentions of the Authorised Representative that degree of MBA acquired in USA will add to his knowledge and skill and will certainly help him in furthering his business and professional interests. I also agree with the contention of the Authorised Representative that though MBA is a degree different from CA but contents of course are almost of similar nature. While in accountancy stress is on accounts and laws related to fiscal affairs in MBA stress is on management aspects while at the same time course contents of CA course are also considered in the studies. Thus these two degrees cannot be strictly compartmentalized and separated and segregated simply because these are two degrees. One has to look into the nature and contents of course and the field of profession of the assessee. For the reasons discussed above I am of the opinion that though MBA and CA are two separate degrees but for the purpose of appellant's profession, acquisition of knowledge and skill in MBA will help the appellant to promote his professional interest. It will not be out of place to mention here the observation of the Hon'ble ITAT, Ahmedabad Bench "A" in the case of Patel Brothers No. 1 v. ACIT Cir. 8(2).

While allowing and holding that the expenditure incurred on technical education of Shri K.D. Patel in USA was a business expenditure. Hon'ble ITAT has observed that all efforts aimed to achieve perfection of international standard should be encouraged in the interest of industrial growth and development of country. Hence contention of the assessing officer that appellant acquired new degree and, therefore, expenditure is not allowable is not tenable. Regarding the contention that the new degree is an asset and advantage of enduring nature it is stated that various Courts as stated above has laid dqwn that expenditure on foreign travel and education expenses directly connected with the business of the assessee are allowable expenditure. Once it is held that the expenditure is incurred on education related to the field of business /profession, same has to be allowed and cannot be held as an advantage of enduring nature. As far as contention that the appellant has not returned from USA and will help him in his profession in USA , is concerned, Authorised Representative has stated that appellant has stayed there to gain first hand working experience and is there on temporary visa. He is though earning salary is not practising any profession and earning of salary is just incidental and subsidiary to the primary factor of gaining the experience. Facts discussed above show that knowledge and skill acquired by the appellant in his MBA degree would certainly help in his profession in India. In fact, Authorised Representative stated that it has started yielding results which can be seen from higher professional income shown by the appellant in assessment years 1998-99 and 2000-01. It, therefore, appears from the discussions made above that not only the MBA degree is related to his field of profession but would and has helped the appellant in promoting his professional interest. Large number of case laws relied upon by the Authorised Representative stated above support the case of the appellant. For the reasons discussed above, I am of the opinion that expenditure incurred on the education of appellant in USA is for the purpose of his business and profession and is allowable.

Assessing officer was not right in disallowing the same. He is directed to allow the deduction in both the years." The main thrust of the learned Commissioner (Appeals) is that degree of MBA will help the assessee in his profession. The degree of CA and MBA cannot be separately placed.

Before us, the learned Departmental Representative submitted that expenditure incurred by the assessee is personal in nature, It is responsible to incur expenditure for his study. The learned Departmental Representative relied on the decision of CIT v. Kohinoor Paper Products (1997) 226 ITR 220 (MP). Against this, the learned Authorised Representative for the assessee submitted that there is a direct nexus of the assessee's profession with the new degree acquired.

It has enhanced its value in commercial market. Further, combination of two branches results into new field which is very important in a commercial world. A manager with CA degree or a CA with management degree has greater value for the clients. He relied on the following decisions:Dr. P. Vadamalayan v. CIT Addl. CIT v. Buckau Wolf New India Engg. Works Ltd. (1986) 157 ITR 751 (Bom.).

After considering the rival submissions, we are of the view that claim of the assessee is allowable. Admittedly, the assessee is a CA and has gone to USA for acquiring MBA degree while carrying on his profession.

The question is, as to whether there is a nexus of the degree with his profession or not. In our mind, it is for the assessee to look for new avenues of profession and they cannot be stopped merely at conservative ideas of confining to traditional branches of studies in a commercial world, more and more new commercial necessities are opening out. There are large number of CAs who have cleared CAT examination and entered into IIMs. There are many technical professionals who are acquiring law degree and serving their clients through profession of law with their background of technical knowledge. They are in a better position to appreciate the logal problems arising in technical fields. A CA who has acquired MBA degree is better equipped to appreciate managerial problems of his clients as to how the client manages his business, what problem is faced and how he solves them. Such a CA who has acquired MBA degree would be in a better position to guide the clients from the point of view of accountancy and law, bow to manage the business. In business, it is now futile to consider accountancy totally divested from management. Both are so integrated that an expert having educational background of the two branches can appreciate how the management appreciate the solution of accounting problems and how the decisions are taken in management which have bearing in accounting and law. In a forward looking commercial society, compartmentalized branches are no longer appreciated.

In view of this, we do not find any reason to hold that CA degree has no nexus with MBA degree. In fact, it is a dire necessity of today's commercial world. In view of this, we uphold the order of the learned Commissioner (Appeals) and dismiss the appeal of the revenue.

In the result, appeals of the revenue are dismissed for all the three years.