Lecture 38

Sec 40 : amt specifically not allowed / disallowed

1) Sec 40 (a)(i) Payment made to non-resident or foreign company.

- Amount paid / credited to non-resident / foreign company shall be 100% disallowed. If :-

a) TDS not deducted in previous year.

b) TDS deducted in p.y but not paid to government upto due date of return filing.

Sec 40 (a) (ia) : Payment made to resident

- ~~any~~ amount paid / credited to resident shall be 30% disallowed if :-

a) TDS not deducted in py. or

b) TDS Deducted in p.y but not paid to govt. upto the date of return filing.

Note : If TDS ~~deducted~~ deducted in sub-sequent year or deducted in p.y but deposited to govt. after due date of return filing then such expenses (100% / 30%) shall be allowed in p.y in which TDS has been paid to Govt

NR R

Exception of above sections.

If any Amt paid / credited and TDS not deducted but payee,

a) Taken into account such amt in total income and

b) has paid taxes to Government ~~and~~ on total income &

c) filed his return of Income and.

d) Payee has furnish a certificate from CA (from 26A)

then,

Whatever amt (100% / 30%) disallowed earlier shall be allowed in P.Y in which payee furnish his return of Income.

example No :- 1

BBVPL paid ₹ 500,000 to AK Sir as a Professional fees on 29/07/2024 without deducting TDS. AK Sir considered this Amt in his income he paid taxes to Govt and he has filed his return on 30/8/25. BBVPL optain a certificate from CA.

A) ₹ 1,50,000 (500,000 X 30%) expenses disallowed in P.Y 24-25.

B) 150000 exp is allowed in PY 25-26 (year in which AK Sir filed his return)

Sec 40 (a) (iii) TDS on Salary Payment o/s India or to non-resident in india.

Any Salary paid o/s india or to NR in india and if :-

a) TDS is Not deducted

b) TDS is deducted in PY but not paid to Govt upto due date TDS payment then such Salary shall be disallowed

Note

If TDS depoisted let even by one day then also salary Not allowed.

Sec 40 (a) (v) Tax on non-monetory perqusite of employee

If any tax on non-monetory perqusite of employee is paid by employee from own Pocket then such tax is not alloved to employer.

IMP sec

Sec 40 A (2) payment to Relatives. (specified person)

If any payment made to relative then A.O. can disalloved excessive ~~one~~ or unreasonable amount

Assessee	Relative.
1) Individual	S. M. F. B. S. LA, LD.
2) HUF / AOP / BOI	Members and their relative.
~~3)~~ |	
3) Firm / LLP	Partners and their relatives.
4) Company	directors and their relatives.

5)

Substantial Intrest

(Relative)
Assessee
(Any person & Relative)

(Relative)
Any other Person & relative.

Substantial Int

IMP

Date:

Substantial Intrest

Company
↓
20% or more eq. SH

Firm/LLP/AOP BOI
↓
20% or more PSR

⑥ HO. CO TATA → Sub Co. TCS
HO. CO TATA → Sub. Co. Titan
Relative.

Sec 40 A(3): Cash payment more than ₹10000 to a single person in a single day

- If assessee makes payment for any expenditere to single person in a single day more than 10000 by any mode other than Account payee check, A/c payee DD, ~~Electronic~~ ECS then such exp shall be disallowed

Notes

① If payment made to transporter then limit is ₹35000

② If any expenditere alredy claimed in earlier year on accrual basis and if such expenditere is paid subsequently by cash, bearer cheque or cross cheque more than 10000 then dedⁿ claimed earlier shall be withdrawn and taxable as PGBP in the year in which the payment is made

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Date:

Exceptions

In following cases cash payment is allowed

1) Payment made to Govt, Banks, LIC, RBI
2) Payment to producer of Agriculture product, Forest product, poultry product, fish product, live stock etc.
3) Payment by book entry (adjustment)
4) Payment of retirement benefits upto ₹ 50000
5) Payment made where banking facility not available.
6) Payment of Salary to employee who is posted at any other place or ship for 15 days or more other than his normal place of duty.
7) Payment made by authorise dealer or money changer for purchase ~~for~~ of foreign currency.
8) Payment for product manufacture without aid of power in cottage ~~in~~ industry
9) Payment made to agent who is required to make payment in cash for goods or service on behalf of assessee.

Sec 40A(7) provision for Gratuity → Not allowed

Note :- only payment of actual Gratuity or Contribution to approve Gratuity fund is allowed as ded^n