**Interest income on application money kept in a separate bank account is taxable in the year of allotment of shares**

**Background**

Recently, the Supreme Court of India in the case of Henkel Spic India Ltd.\(^1\) (the taxpayer) held that interest income on application money kept in a separate bank account is taxable in the year in which the entire allotment procedure is completed and not in the year of public issue.

**Facts of the case**

- The taxpayer opened a public issue of shares on 29 January 1992. The date of closure of this issue was 3 February 1992. Proceeds that were received from the applicants to the share capital were deposited in the bank within 46 days as per the requirement under the Companies Act, 1956.

- The shares were ultimately allotted in June 1992. The application money of those who were not allotted the shares was refunded along with interest. The taxpayer earned an interest of INR18.33 million on the amount deposited in the bank.

- The Assessing Officer (AO) wanted to tax the aforesaid interest income in the Assessment Year (AY) 1992-93 as the money was received between 29 January 1992 and 3 February 1992 and the interest earned thereupon in the said Financial Year (FY).

- The taxpayer contended that the shares were allotted only in June 1992 i.e. during the FY 1993-94. Further, as per Section 73 of the Companies Act, 1956, the taxpayer was required to keep the money in a bank account and interest accrued to the taxpayer only on allotment of the shares. Before that, the amount was kept in a trust by the taxpayer which originally belonged to the applicants who wanted to subscribe for the shares.

- After a certain amount was refunded, which included interest to those whose application money was returned, the actual amount that was left became the income and, therefore, this income accrued only in the FY 1993-94.

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\(^1\) CIT v. Henkel Spic India Ltd. [2015] 64 taxmann.com 405 (SC)
It is not in dispute that in the year 1993-94, the taxpayer had shown the income on account of interest received in the income tax returns and paid the tax thereupon.

The Supreme Court, thus, does not find any error in the order passed by the High Court holding that the interest income has accrued only in the AY 1993-94 and was taxable in that year only and not in the AY 1992-93.

Our comments

The Supreme Court, in various decisions\(^{2}\), held that if the taxpayer acquires a right to receive the income, the income can be said to have accrued to him though it may be received later on it being ascertained.

The Supreme Court in the instant case held that it is only after the allotment process is completed and all money payable to those to whom money is refundable is refunded together with interest; the balance remaining from and out of the interest earned on the application money can be regarded as belonging to the company. Accordingly, interest income on application money kept in a separate bank account is taxable in the year in which the entire allotment procedure is completed.

It would be interesting to see how ICDS 4 - Revenue Recognition impacts the taxability of such income.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

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