

Gold wastage during creation of ornaments can't be treated as 'making charges'; Sec. 194C TDS not applicable

Facts of the case - P.R. Gold and Silver Craft v. DCIT - [2022] (Chennai - Trib.)

Assessee was engaged in the business of making gold and silver jewellery. During the relevant year, assessee purchased old jewellery from the customers and the same was melted by the goldsmiths to get pure gold.

During the process of making new ornaments, some gold suffered wastage which was retained by the goldsmiths. During the relevant year, the assessee claimed to have incurred wastages from 5%- 6%.

However, the Assessing Officer restricted the wastage percentage to 1% and contended that the wastage over 1% was to be treated as making charges. AO held that the assessee failed to deduct tax under section 194C on these making charges and made disallowance under section 40(a)(ia).

On appeal, the CIT(A) confirmed the action of AO. Aggrieved-assessee filed the instant appeal before the Tribunal.

Decision of the case :

- The Tribunal held that the manufacturing of ornaments involves various processes and the wastage is actual and real. However, the given case didn't pertain to the eligibility of wastage but pertained to whether such wastage was liable to deduction of tax under section 194C.
- The entire process of the assessee was it had outsourced its manufacturing to certain jewelers outside Pondicherry and pathars in Pondicherry. The jewelers had not claimed any wastage as loss as they paid higher job charges which includes the value of wastage suffered. However, the pathars claimed wastage but paid lesser job charges.
- The assessee filed party-wise details of the making charges paid to jewellers and pathars and details of tax deducted therefrom.
- It should be noted that the provisions of section 194C are applicable when the assessee has paid or credited any charges covered thereunder. In case, no payment is debited or credited to the respective party's account, then such payment cannot be considered within the ambit of section 194C or any other TDS provisions.
- In the given case, the claim of wastage whether it is 1% or 6% neither involves any payment nor credit of such sum by way of cash, issue of cheque or draft nor by any other mode. Thus, the deduction of tax at source under section 194C doesn't arise.