



TAX FLASH NEWS

Allowability of a deduction under Section 80E in respect of higher education pursued outside India

Background

Section 80E of the Income-tax Act, 1961 (the Act) allows a deduction in the hands of individual taxpayers in respect of interest paid on a loan taken from any approved financial/charitable institution for the purpose of pursuing his/her higher education or for the purpose of higher education of his/her relative.

The Pune Bench of the Income-tax Appellate Tribunal (the Tribunal) in the case of Nitin Shantilal Muthiyan¹ (the taxpayer) held that interest on an education loan availed for pursuing higher education outside India is eligible for a deduction under Section 80E of the Act.

Facts of the case

- The taxpayer had claimed a deduction of INR73,125 under Section 80E of the Act for the Assessment Year (AY) 2009-10.
- The taxpayer's son was pursuing a course at George Washington University, U.S.A. after completion of his Bachelor of Engineering in Electronics and Telecommunication from the University of Pune.
- The Assessing Officer (AO) was of the view that the deduction under Section 80E of the Act is allowable only in case of higher education pursued in India at approved educational institutes.
- The taxpayer argued that the Act does not specifically mention that the higher education should be pursued in India; however this argument was rejected by the AO.
- The AO disallowed the said deduction on the grounds that the educational institute (where the taxpayer's son was pursuing his higher education) was not authorised by any of the authorities in Section 80E(3)(c) of the Act.
- The Commissioner of Income-tax (Appeals) [CIT(A)] observed that the taxpayer had not furnished any evidence that the university where the education was pursued was approved either by the central government or by any other authority authorised for this purpose and that there was no evidence to suggest that the taxpayer's son was pursuing his higher education.
- Accordingly, the CIT(A) confirmed the disallowance of the said deduction.
- It was argued before the Tribunal that the provisions of Section 80E were not read by the lower authorities in proper perspective.
- It was also contended that if the intent of the legislature has been to restrict the benefit in respect of higher education pursued in India, it would have specifically been mentioned.
- A parallel interpretation was drawn from Section 11 of the Act where the Act explicitly states that "...income derived from property held under a trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes *in India*..."

¹ Nitin Shantilal Muthiyan v. DCIT [2015] 59 taxmann.com 41 6 (Pune)

Tribunal's ruling

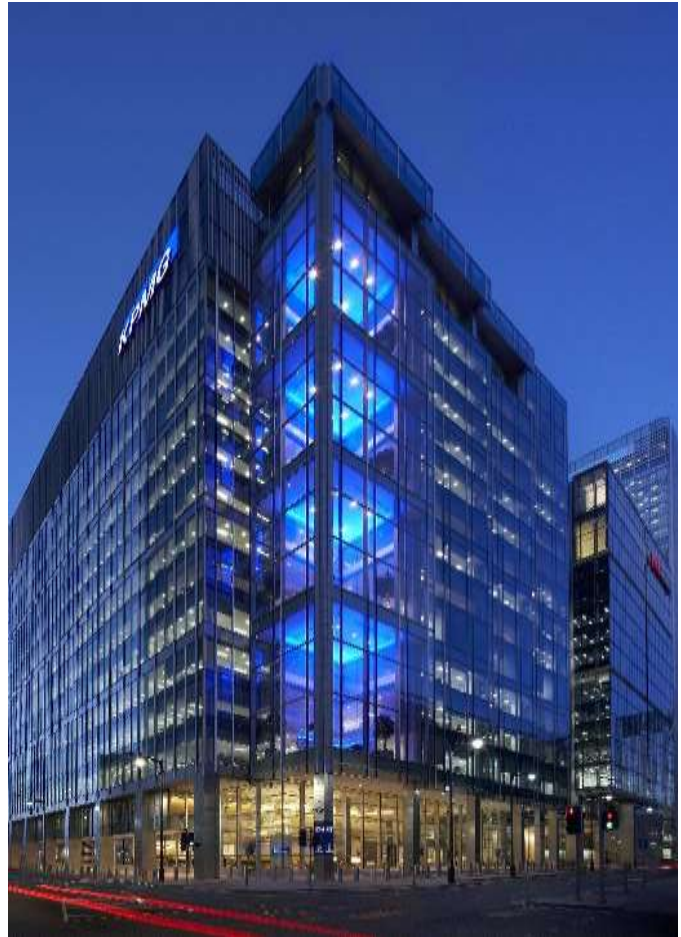
- The payment of interest on the loan was not in dispute and only the allowability of such an interest as a deduction under Section 80E.
- The AO and the CIT(A) had disallowed the deduction on different grounds.
- The taxpayer had placed on record certificates issued by University of Pune and the George Washington University, U.S.A. which conclusively proved the nature of the course pursued.
- The Tribunal also cited that they found no merit in the objections of the CIT(A) about the evidence of the taxpayer's son pursuing higher education as the AO's order mentions that he was pursuing a Masters degree at the George Washington University in the U.S.A. and the certificates have been issued by the universities.
- On reading the provisions of Section 80E of the Act, the Tribunal acknowledged that the provisions of Section 80E did not contain any stipulation that the education should be pursued only in India; and, if the intent of the legislature was that education should be pursued in India in order to avail the deduction, the Section would have stated so. Further, the taxpayer's son had completed his Senior Secondary Examination or its equivalent in India as required by Section 80E(3)(c) of the Act.
- Since the taxpayer's son was pursuing his Masters degree from George Washington University, U.S.A. after completing his Secondary Education Examination or its equivalent in India and as the interest expenditure was not in dispute, the taxpayer was eligible to claim the said deduction.
- The order of the CIT(A) was set aside and the appeal of the taxpayer was allowed.

Our comments

This is a significant decision in the claim of a deduction under Section 80E, as pursuit of higher education outside India is gaining ground in the country.

This order takes into the account the definition of the term 'higher education' as amended² in order to cover a wider gamut of courses than the earlier definition which was restricted to specific fields of study and types of courses.

² Amended by the Finance Act, 2005 effective 1 April 2006



Ahmedabad

Commerce House V, 9th Floor,
902 & 903, Near Vodafone House,
Corporate Road,
Prahlad Nagar,
Ahmedabad – 380 051
Tel: +91 79 4040 2200
Fax: +91 79 4040 2244

Bengaluru

Maruthi Info-Tech Centre
11-12/1, Inner Ring Road
Koramangala, Bangalore 560 071
Tel: +91 80 3980 6000
Fax: +91 80 3980 6999

Chandigarh

SCO 22-23 (1st Floor)
Sector 8C, Madhya Marg
Chandigarh 160 009
Tel: +91 172 393 5777/781
Fax: +91 172 393 5780

Chennai

No.10, Mahatma Gandhi Road
Nungambakkam
Chennai 600 034
Tel: +91 44 3914 5000
Fax: +91 44 3914 5999

Delhi

Building No.10, 8th Floor
DLF Cyber City, Phase II
Gurgaon, Haryana 122 002
Tel: +91 124 307 4000
Fax: +91 124 254 9101

Hyderabad

8-2-618/2
Reliance Humsafar, 4th Floor
Road No.11, Banjara Hills
Hyderabad 500 034
Tel: +91 40 3046 5000
Fax: +91 40 3046 5299

Kochi

Syama Business Center
3rd Floor, NH By Pass Road,
Vytilla, Kochi – 682019
Tel: +91 484 302 7000
Fax: +91 484 302 7001

Kolkata

Unit No. 603 – 604,
6th Floor, Tower – 1,
Godrej Waterside,
Sector – V, Salt Lake,
Kolkata 700 091
Tel: +91 33 44034000
Fax: +91 33 44034199

Mumbai

Lodha Excelus, Apollo Mills
N. M. Joshi Marg
Mahalaxmi, Mumbai 400 011
Tel: +91 22 3989 6000
Fax: +91 22 3983 6000

Noida

6th Floor, Tower A
Advant Navis Business Park
Plot No. 07, Sector 142
Noida Express Way
Noida 201 305
Tel: +91 0120 386 8000
Fax: +91 0120 386 8999

Pune

703, Godrej Castlemaine
Bund Garden
Pune 411 001
Tel: +91 20 3050 4000
Fax: +91 20 3050 4010

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 endeavor 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.

© 2015 KPMG, an Indian Registered Partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name, logo and "cutting through complexity" are registered trademarks or trademarks of KPMG International Cooperative ("KPMG International").

This document is meant for e-communications only.