

# Tax Hotline

July 06, 2000

## THE INCOME TAX TRIBUNAL - MUMBAI, INDIA RELIEVES THE EMPLOYER FROM LIABILITY TO MAKE UP SHORTFALL OF TAX AT SOURCE ON SALARY TO EMPLOYEE.

The Indian Income Tax Appellate Tribunal (Mumbai) (ITAT) in the case of The Associated Cement Co Ltd. (the employer), Mumbai V/s The Income Tax Officer held that the tax authorities should collect the deficient amount of tax deducted at source on salary income directly from the employee and not from the employer.

It was further held that the Income Tax Act, 1961 (ITA) casts an obligation on the employer to deduct tax at source on the salaries paid to its employees, and deposit the same to the Government Treasury. Under the provisions of the ITA the employer cannot be treated as "assessee in default" if there is a shortfall in such deduction. Hence a penalty cannot be imposed on the employer for the shortfall. The primary responsibility of making up the shortfall in tax is that of the employee and the income tax officer should collect the shortfall together with the penalty from the employee.

Source: *The Economic Times* July 6, 2000

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