Section : Accounting Policies

Topic : Accounting for tax in respect tax position under litigation

Effective date : April 1st, 2019

Objective

Tata Capital recognizes the liability towards income tax payable on taxable income computed in accordance with applicable tax rates and provisions of Income Tax Act, 1961. The Taxes paid are accounted as assets and are available for set off against the income tax liability.

There could be a situation where different interpretations of law are possible in respect of taxation of a particular transaction/income or deductibility of expense or admissibility of an exemption. The tax position adopted by the company may not be accepted by the taxation authority resulting in litigation with tax authorities which may get settled upon decision by the appellate authorities. At present, the current tax liability and current tax assets are carried in the balance sheet till the time all the pending litigations are finally settled. This may take a long period of time and therefore a policy laying down the guidelines for adjusting the current tax asset and liability is being formulated.

Accounting of the current tax on litigated tax positions

In principle, the validity of a tax position is a matter of tax law. However, in some cases, the law is subject to varied interpretation, and whether a tax position will ultimately be sustained may be uncertain.

In such scenario, the company will determine whether it is more likely than not that a tax position will be sustained in any related appeals or litigation processes, based on the examination of technical merits of the position. Such examination shall be based on history of judicial decision on the issue under litigation, opinions from professional / legal firms, provisions of the law and retrospective amendments, tax positions accepted by Income Tax authorities in the past etc.

Post examination / evaluation of the tax position;

1) If it is more likely than not that the tax position will be sustained at appellate levels till Tribunal, then the tax provision should be as per the income tax returns submitted. The tax impact of the additions to income made by tax officer would be reflected as contingent liability in the financial statements.

2) If the Income Tax Tribunal decides the issue in favour of company, then current tax liability may be squared off against the current tax assets in the books of account after taking approval of the Audit committee of the Board.

3) If the Income Tax Tribunal decides the issue against the company, then:

   a. current tax liability should be squared off against current asset, if in the assessment of company its tax position is no longer tenable. The company would further assess the requirement to make incremental tax provision and shall provide the same in its books and pay the incremental tax.

   b. However, if the company believes that its tax position is tenable and is likely to be sustained at High Court, then the same would be reflected as contingent tax liability without the squaring off current tax asset and current tax liability.

4) Post disposal of the appeal before High court under 3(b) above, tax provisions should be squared off against current tax assets and additional tax provisions if required would be made, taxes thereon paid and squared off against current tax provision if the issue is decided against the company.

5) Interest on income tax refunds should be accounted only on receipt of tax refunds.

6) Interest payable under the sections 234B/234C of the Income Tax Act on the tax payable on taxable income as per return of income should be accounted under the head “interest expense”. Any incremental interest under section 234B/234C charged due to increase in the taxable income in the income tax assessments/ appeals/ revisions etc. and any interest levied under section 220 by the Income tax authorities should be treated in line with the abovementioned principles.

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