

## Payments for receipt of satellite signals fall within ambit of process royalty in view of FA, 2012 amendments

**Summary** – The Cochin ITAT in a recent case of Kerala Vision Ltd., (the Assessee) held that payment made by the assessee as "Pay Channel Charges" is "royalty" as defined in clause (i) of Explanation 2 to sec. 9(1) of the Act in view of Explanation 6 below clause (vi) of sub-section (1) of sec. 9 defining the word "process".

### Facts

- Royalty as defined by *Explanation 2* to clause (vi) of sub-section (1) of sec. 9 covers consideration for the transfer of all or any rights (including the granting of a licence) in respect of a process.
- The Finance Act, 2012 has inserted *Explanation 6* below clause (vi) of sub-section (1) of sec. 9 defining the word "process"
- The expression "process" includes and shall be deemed to have always included transmission by satellite, cable, optic fibre or by any other technology.
- In the instant case, the assessee is engaged in the business of transmitting the television channels or signals by cable by receiving signals through satellite. Such kind of transmission (both receipt of signal and transmission of the same) is included in the definition of "Process" under *Explanation 6*, which has been inserted by the Finance Act, 2012 to remove the doubts.
- Hence, the payment made by the assessee as "Pay Channel Charges" shall fall in the category of "royalty" as defined in clause (i) of *Explanation 2* to sec. 9(1) of the Act.