

## Sum paid for live coverage of IPL matches isn't FTS under India-UK DTAA

**Summary –** The Mumbai ITAT in a recent case of IMG Media Ltd., (the Assessee) held that Sum paid for capturing and delivering live audio and visual coverage of IPL cricket matches was not Fee for Technical Services('FTS') as broadcasters or the BCCI had not acquired technical expertise from the assessee which would enable them to produce the live coverage feeds on their own after the conclusion of IPL

### Facts

- The BCCI engaged assessee for capturing and delivering live audio and visual coverage of IPL cricket matches.
- The issue that was disputed in the instant case was:

*Whether sum received for live coverage of IPL cricket matches would be taxable as 'FTS' under India-UK DTAA?*

### Held

- There should not be any dispute that the production of "program content" by using technical expertise is altogether different from the provision of technology itself. In the former case, the recipient would receive only the product and he can use the product according to his convenience, whereas in the latter case, the recipient would get the technology or knowhow and, hence, he would be able to use the technology or knowhow on his own in order to produce any other program content of similar nature.
- In the instant case the assessee was delivering the "final product in the form of program content" produced by it by using its technical expertise. Thus, it did not deliver or make available any technology/knowhow to the BCCI.
- The revenue had not established that the broadcasters (acting on behalf of the BCCI) or the BCCI itself had acquired the technical expertise from the assessee which would enable them to produce the live coverage feeds on their own after the conclusion of IPL.
- Since, in the instant case the essential condition of "make available" clause did not satisfy, hence, the amount received by the assessee for delivering live audio and visual coverage of IPL matches could not be considered as "FTS" in terms of Article 13(4)(c) of the India-UK DTAA.