

## **Bill management services aren't professional services; liable to sec. 194C TDS and not sec. 194J TDS**

**Summary – The High Court of Karnataka in a recent case of Executive Engineer., (the Assessee) held that where assessee, engaged in executing turnkey project for supplying electricity, made payment against supply of materials included in composite contract, provisions of section 194C would not apply in respect of such payment**

**Where assessee made payments towards bill management services, since said services were not in nature of professional services, rather it was a case of service contract, provisions of section 194J would not apply and, tax was required to be deducted under section 194C in respect of said payments**

### **Facts - I**

- The assessee-company was engaged in supplying electricity. In course of appellate proceedings, the question came up for consideration was as to whether in respect of payment made against the supply of materials included in composite contracts for executing turnkey projects, provisions under section 194C would attract or not.

### **Held - I**

- The various clauses of the contract make it clear that three separate contracts have been entered into, but all the separate contracts were integral parts of a composite contract on single sale basis. In respect of invoices raised on the basis of the said composite contract separately mentioning the value of the material supplied, no deduction is permissible under section 194C. Section 194C cannot be pressed into service to deduct tax at source. The whole object of introduction of that section is to deduct tax in respect of payments made for works contract. No division is, therefore, permissible in respect of a contract for supply of materials for carrying out the work. It is in a case of distinct contracts. The contract for supply of material being a separate and distinct contract, no division is permissible under section 194C. Section 194C has suffered an amendment also with effect from 1-10-2009 and the provision has been made very clear without any ambiguity.
- Thus, it can be concluded that if a person executing the work, purchases the materials from a person other than the customer, the same would not fall within the definition of 'work' under section 194C.

### **Facts - II**

- The assessee-company made payments to 'B' for bill management services. In appellate proceedings, the question came up for consideration was whether said payments could be regarded as fee for professional and technical services and, therefore, came within the purview of section

194J or it was a case of payments made towards carrying out work which would come within the ambit of section 194C.

**Held - II**

- The services rendered by the agencies engaged by the assesseees are not professional services, and, therefore, section 194J is not attracted. The demand towards the alleged short deduction of tax deducted at source and interest, therefore, was improper. The contract was rightly held to be a service contract by the Tribunal and it was a contract, which should be covered under section 194C
- In view of aforesaid, the revenue's appeal were to be dismissed.