

Purchase of technical data for AE couldn't be treated as rendering of technical services

Summary – The High Court of Andhra Pradesh and Telangana in a recent case of Heramec Ltd., (the Assessee) held that where parent company purchased a ready study data from a foreign company and supplied it to its subsidiary company (assessee) at cost, it could not be construed as technical services rendered to a resident under section 194J

Facts

- In the year 2004, assessee's parent company AP purchased technical data from a foreign company and gave it to the assessee. The account of assessee was debited with the amount of cost of data in the books of account of company AP. Said amount was recovered from the assessee by company AP in the relevant assessment year.
- The Assessing Officer passed an order under section 201(1A) treating this amount as liable for TDS under section 194J and raised certain demand of tax with interest.
- The assessee's appeal was rejected by the Commissioner (Appeals).
- However, on second appeal, the Tribunal held that the assessee was merely supplied with ready study data, and no services were rendered by company AP to the assessee to be construed as technical services rendered to a resident under section 194J and, therefore, the Assessing Officer had wrongly levied tax under section 201 and interest thereon.
- On appeal by the revenue:

Held

- From a perusal of the order under appeal, it is clear that the ready study data purchased by company AP from the foreign company was supplied by it to the assessee; and the amount paid by company AP to foreign company was reimbursed by the assessee four years thereafter in the year 2008. It is evident, therefore, that no services were rendered by the parent company to its subsidiary, *i.e.*, the assessee so as to be construed as technical services rendered to a resident under section 194J.
- Department has also not been able to show how procurement of ready study data by the parent company, from another foreign company, and supplying it to the assessee amounts to services rendered to a resident attracting section 194J. The Tribunal is the final court of facts and, as the finding recorded by it is on the basis of the material on record, the order under appeal cannot be said to be perverse.