

Payment of AMC of medical equipments in hospital are liable to sec. 194C TDS and not sec. 194J TDS

Summary – The Mumbai ITAT in a recent case of Dr. Balabhai Nanavati Hospital., (the Assessee) held that Payments for Annual Maintenance of medical equipments being made for routine and normal maintenance would be covered by section 194C; same was not in nature of professional for technical services

Facts

- The assessee charitable hospital had been making annual maintenance contract in respect of medical equipments like X-ray Machines, HD dialysis machines, CT Scanner, Olympus Endoscopes, MRI Scanner, Axiomo arties FC etc. It was making payments as per regular AMC's and deducted TDS as per the provisions of section 194C.
- According to the Assessing Officer payments made by assessee to various vendors in respect of hospital equipments towards annual maintenance contracts were in the nature of fee for technical services falling under section 194J and thereby TDS should have been deducted under this provision at the rate of 10 per cent instead of TDS deducted by the assessee under section 194C at the rate of 1 per cent. Thus, recomputed the deduction in view of provisions of section 194J and also charged interest under section 201(1A).
- On appeal, the Commissioner (Appeals) held that the expenditure on account of Annual Maintenance Contracts (AMC) of medical equipments/machines etc. was not in the nature of professional or technical services as construed under the provisions of section 194J and, hence, provisions of section 194J were not applicable. The assessee had correctly deducted TDS under section 194C in respect of said payments. Accordingly, the demands of tax under section 201(1) and of interest under section 201(1A) were deleted.'
- On the revenue's appeal to the Tribunal:

Held

- After going through the AMC filed by the assessee in its paper book, it is evident that AMC was necessary to keep medical equipments and other hospital equipments in good working condition and this process was normally carried out by skilled mechanics and not any qualified technician. Through these AMCs, the assessee was carrying out routine normal maintenance which was covered by the provisions of section 195C and these were not technical services covered under section 194J.
- In view of the above facts and circumstances, the expenditure on account of AMC of medical equipments etc., is not in the nature of fee for professional and technical services as construed under section 194J and hence, not liable to deduct TDS under section 194J. The assessee has deducted TDS under section 194C in regard to payments on AMC of medical equipments and

machines etc. Accordingly, there is no infirmity in the order of the Commissioner (Appeals) on this issue and hence, the same is confirmed.