

## **Sum paid towards transmission charges for electricity won't attract TDS provision: HC**

**Summary – The High Court of Calcutta in a recent case of West Bengal State Electricity Distribution Company Ltd., (the Assessee) held that where assessee, engaged in distribution of electricity, made payments of wheeling charges, power factor rebate, unscheduled interchanging charges, transmission charges, power interruption charges and certain other charges to Regional Load Despatch Centre, said payments not being in nature of contractual payments nor they were for receiving technical services, assessee was not required to deduct tax at source under section 194C or 194J**

### **Facts**

- The assessee, a public sector undertaking was involved in distribution of electricity throughout the State of West Bengal. The assessee sought deduction in respect of wheeling charges, power factor rebate, unscheduled interchanging charges, transmission charges, power interruption charges and certain other charges paid to Regional Load Despatch Centre.
- The Assessing Officer took a view that assessee was required to deduct tax at source under sections 194C and 194J while making said payments. In view of assessee's failure to do so, the Assessing Officer disallowed said payments.
- The Commissioner (Appeals) deleted the disallowance holding that charges in question were neither for work done by a contractor, which was the subject of section 194C nor such charges were for receiving technical service by the assessee, which would have attracted the provisions of section 194J.
- The order of the Commissioner (Appeals) was sustained by the Tribunal.
- On revenue's appeal:

### **Held**

- The view of the Tribunal in respect of power factor rebate and power interruption charges are essentially findings on fact, upon appreciation of certain technical aspects. It has been held by the Tribunal that power factor rebate is not paid to anybody. It has also been found by the Tribunal that both these charges are adjusted against electricity consumption bills payable by high voltage industrial consumers. The factual basis of these findings have not been contested by the revenue. Such finding cannot be said to be perverse.
- As regards charges paid to Regional Load Despatch Centre (RLDC), the assessee's stand is that these are in the nature of fees paid to a statutory authority under the Electricity Act, 2003 and as such payment on these heads also cannot constitute fees contemplated in the aforesaid two provisions of the Act. The other head in respect of which expense has been disallowed is payment of license fee in terms of the Electricity Act, 2003. On this finding also, the revenue has not made out a case for interference with the Tribunal's decision.

- This being the legal position, there is no reason to take a view contrary to that taken by the Tribunal while sustaining the order of the Commissioner (Appeals).
- Thus, no substantial question of law is involved in this appeal. The appeal is, accordingly, dismissed.