

## 'Transaction Charges' paid by broker towards facilities provided by stock exchange are not liable for TDS: ITAT

**Summary – The Mumbai ITAT in a recent case of Vibrant Securities (P.) Ltd., (the Assessee) held that 'Transaction charges' paid by stock broker to stock exchange were not for 'technical services' provided by stock exchange, but for facilities provided by stock exchange to its members, therefore, no tax on such payments was required to be deducted at source under section 194J**

### Facts

- The assessee-company was engaged in the business of share broking as a member of Bombay Stock Exchange and National Stock Exchange had filed its return of income declaring total income.
- The case of the assessee was taken up for scrutiny assessment under section 143(2). The Assessing Officer being of the view that the assessee had failed to deduct tax at source on transaction charges therein disallowed the same under section 40(a)(ia).
- On appeal, the Commissioner (Appeals) deleted the additions made by the Assessing Officer.
- On the revenue's appeal to the Tribunal.

### Held

- After the judgment of Supreme Court in the case of *CIT v. Kotak Securities Ltd.* [\[2016\] 383 ITR 1/239 Taxman 139/67 taxmann.com 356](#), the issue as to whether 'transaction charges' fall within the sweep of 'fees for technical services', or not, had been settled once and for all and is no more found to be *res integra*. One finds that the Apex Court deliberating at length on the issue under consideration, had therein concluded that 'transaction charges' being in the nature of charges paid by a stock broker for facilities provided by the Stock Exchange, thus, the same cannot be characterized as 'fees for technical services'. Thus, in the backdrop of the aforesaid settled position of law, one is of the considered view that now when the 'transaction charges' paid by the assessee to the Stock Exchange cannot be held as 'fees for technical services', therefore, no disallowance of the aforesaid amount would be called for in the hands of the assessee under section 40(a)(ia).