

Payments made to foreign co. towards installation and repair work of wind turbine abroad taxable as FTS in India

Summary – The High Court of Madras in a recent case of Regen Powertech (P.) Ltd., (the Assessee) held that Payments made to foreign co. towards installation and repair work of wind turbine abroad was taxable as FTS in India

Facts

- The assessee supplied Wind Turbine Generators (WTG) to their customers in Srilanka and also its erection and commissioning. The assessee engaged the services three foreign companies for the purpose of this work.
- During relevant year, the assessee made payments to aforesaid three entities without deducting tax at source.
- The Assessing Officer opined that services rendered by aforesaid companies fell within the meaning of technical services and, thus, payments made to them was liable to tax in India as fee for technical services under section 9(1)(vii) as well as article 12 of India-Srilanka DTAA.
- The Tribunal upheld order passed by the Assessing Officer.
- On appeal:

Held

- The HC stated that on review of records it is seen that nature of activity done by the foreign companies was not mere construction or assembly or mining like project and the installation/repair/market study work in connection with the wind turbine was a highly skilled technical work and had correctly been treated as Fee for Technical Services.
- Therefore, the conclusion arrived at by the two authorities and the Tribunal on all the three issues does not call for interference.