

Tax Hotline

June 14, 2002

PAYMENTS TO NON RESIDENTS FOR SATELLITE SIGNALS NOT LIABLE TO TAX IN INDIA, RULES INCOME TAX TRIBUNAL IN CHENNAI, INDIA

The Chennai Income Tax Tribunal (“**ITAT**”), in a ruling, which would impact most of the television companies in India, has held that the payment by an Indian TV company to a UK company for signals beamed from satellites would not be liable to tax in India.

Raj TV of Chennai, filed an appeal against the income tax demand on the payment made by it to the London based Reuters Television (“**RTV**”), which provided Raj TV with uplinking facilities through a Russian satellite, Intersputnik.

The Income Tax Department (“**Department**”) claimed that the payments were in the nature of royalty and fees for technical services and hence taxable in India under the provisions of the Income Tax Act, 1961 (“**ITA**”). The Department contended that the services were rendered in India by beaming signals across the taxable territory of India, which was utilized by local channels.

The ITAT rejected the Department’s stand. The ITAT observed that the payment was not for any right to use a specified intellectual property rights or for imparting any industrial, commercial or scientific information. The payment was for hiring transponders only. ITAT pointed out that RTV did not own the transponders through which the programmes were beamed. RTV is an international television news organization with access to satellite transponder space and uplinking facilities from time to time.

In view of the ITAT’s decision, the payment for the use of industrial, commercial or scientific equipment, which normally falls within the purview of the definition of “royalty” under Double Taxation Avoidance Agreements, is outside the scope of royalty as defined under the ITA (*NOTE: Finance Act 2001 has amended the definition of royalty in the ITA with effect from April 1, 2001 to include “equipment royalty”*).

The ITAT opined that the payment could also not be construed as fees for technical services. In this case, Raj TV was entitled to use the satellite, which was located outside the Indian territory and this could only be classified as a business arrangement, not provision of technical service. It could not therefore be taxed as fees for technical services.

It was held that since the payment was not subject to tax in India, Raj TV was not required to withhold tax at source while making the remittance to RTV, London.

Source : *The Economic Times*, June 14, 2002

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Third Party Funding in India

March 28, 2024

Compendium of Research Papers

March 21, 2024

Opportunities in GIFT City

March 18, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

Emerging Legal Issues with use of Generative AI

October 27, 2023

Audio

The Midnight Clause

February 29, 2024

Enforceability of unstamped or inadequately stamped Arbitration Agreements

January 10, 2024

Lookout circulars: An Introduction

December 29, 2023

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

[Click here to view Hotline archives.](#)

Video

Cyber Incident Response Management

February 28, 2024

Webinar : Navigating Advertising Laws in India Part II Fireside Chat with Manisha Kapoor

February 27, 2024

**Webinar : Navigating Advertising
Laws in India**

February 20, 2024