



# **SATURDAY INTERNATIONAL TAX GYAN !!!**

## **#taxmadeeasy**

**SITG No. 253**

**Tractors & Farm -Equipment Ltd.**

**v.**

**Deputy Commissioner of Income-tax\***

**Warranty reimbursements made to  
foreign dealers for foreign customers  
without any profit  
element were not taxable in India**

**12.04.2025**



**[2025] 170 taxmann.com 128 (Chennai - Trib.) [04-12-2024]**

**Jain Shrimal & Co.**

## Facts of the Case

- ❖ The assessee, Tractors & Farm Equipment Ltd, is an Indian company manufacturing and exporting agricultural tractors. Assessee company sold tractors outside India through overseas distributors/dealers and provides after sale support in the form of warranty of Tractors to the end customers.
- ❖ The dealers abroad carried out warranty repairs and raised invoices for actual expenses incurred, which were reimbursed by the assessee company on actual cost basis.
- ❖ The assessee company did not deduct TDS on these reimbursements, claiming that these expenses were not taxable in India.
- ❖ However, the AO treated the assessee as a defaulter for not deducting Tax Deducted at Source (TDS) before making the payment, resulting in a demand of Rs.73,79,557/- as tax withheld and charged Rs.70,84,374/- towards interest for non-deduction.

## Assessee's Contention

- ❖ Assessee contended that the amount reimbursed by it to dealers abroad was based on **actual cost** incurred by them, there is **no profit element/income** accruing in the hands of the dealers abroad on the payment made by assessee.
- ❖ Warranty related services have been rendered and utilized **outside India** by the foreign dealers.
- ❖ The payees (foreign dealers) had **no permanent establishment** in India.
- ❖ Payments made for services utilized to earn income from sources outside India are **excluded** from income deemed to accrue/arise in India. Hence, **no TDS** was required on the reimbursement made.
- ❖ The assessee contended that the warranty obligation being part and parcel of the sales transaction, it **couldn't** be termed as "fees for technical services".

# Revenue's Contention

- ❖ Revenue contended that there was an **element of income embedded** even in reimbursements.
- ❖ Revenue contended that part identification or defect analysis, correction and reporting of warranty are **technical in nature** and therefore fall under 'fees for technical services'
- ❖ The payment made by the assessee to the warranty service providers was towards a **contractual payment** for obtaining technical services from the dealers for servicing the tractors.
- ❖ Hence, the payments were **taxable in India**, and TDS should have been deducted before making payment.

# Legal provisions

## **Section 9(1)(vii) of the Act:**

Income by way of fees for technical services payable by—

- (a) the Government ; or
- (b) a person who is a resident, except where the fees are payable in respect of services utilised in a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or
- (c) a person who is a non-resident, where the fees are payable in respect of services utilised in a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India

# Ruling

Hon'ble ITAT, Chennai ruled in the **favour of assessee** company holding that :

- ❖ The payments made by the assessee company to foreign dealers were **pure reimbursements of actual expenses** (warranty costs) **without any profit element** embedded in it.
- ❖ The reimbursements were for **services rendered and utilized entirely outside India** and there is **no evidence** on record that any of the payees had permanent establishment in India.
- ❖ Since the warranty obligations formed part of the sales transaction and did not involve technical services rendered to the assessee, such payments **did not qualify as "fees for technical services"**.
- ❖ Hence, there is **no obligation** for assessee company to deduct tax at source.

## Our Comments

- ❖ It is not clarified in the facts of the case as to whether the warranty reimbursements was provided for only goods provided in warranty or also services involved in providing warranty to foreign customers and how it was determined that the service was on cost to cost basis.
- ❖ Further, even if profit element would have been included, same would not be taxable in India for Non- resident as the services are provided outside India to the person residing outside India which is as per the exception of Section 9(1)(vii) (b) of the act.
- ❖ Relevant extract of the act is as under:

*Income by way of fees for technical services payable by—*

*(b) a person who is a resident, **except where the fees are payable in respect of services utilised in a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India.***

<b>Section/Article</b>	Section 9 r.w.s. 195 of IT Act, 1961
<b>Court</b>	Chennai Tribunal
<b>Date of decision</b>	04.12.2024

**Note:** Case law name in **Red**- in favor of the revenue, **Green**-In favor of the Assessee, **Orange** = Partial



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