

Transponder Charges are not in the nature of Royalty Income: ITAT

FACT OF THE CASE

1. The assessee Viacom 18 Media Private Limited is a company incorporated in India. During the relevant period was engaged in broadcasting television channels from India which included marketing of advertising airtime on different channels and distribution of those channels. The assessee availed satellite signal reception and transmission facility (i.e. transponder facility) and paid service fee to three entities.
2. the Assessing Officer held that as per Explanation 6 (inserted by the Finance Act, 2012) to section 9(1)(vi) of the Act, the term “**process**” includes the transmission of satellite (including uplinking, amplification, conversion for downlinking of any signal).

DECISION OF THE CASE

1. The two-member bench comprising Judicial Member Mr. Praveen Kumar Gadale and Accountant Member Mr. Om Prakash Kant observed that the first appellate authority referred to master agreement between the assessee and Intersat Corporation, USA to highlight the services of transponding facility provided by the party.
2. “The Ld. CIT(A) has noted that while passing the order dated 28/03/2014, 04/02/2015, and 10/02/2015 in assessee’s own case, the Tribunal was not having any benefit of the decision of the Hon’ble Bombay High Court in the case of New Sports Broadcast Pvt Ltd (ITA 1487 of 2018) and, therefore, transponder payments were held to be royalty, taxable under the Act / Treaty. However, subsequently, in ITA Nos. 599 to 614/Mum/2016 for the assessment year 2013-14 to 2015-16 in the order dated 09/07/2018 following the decision of GE Technology Centre Pvt Ltd (supra) held that since no income was chargeable in the hands of the recipient, there was no liability on the part of the assessee to deduct tax at source on the similar payments for transponder facility. Further, the Ld.CIT(A) has followed binding precedents of jurisdictional High Court in the case of New Sports Broadcast Pvt Ltd (supra), wherein it is held that transponder charges are not in the nature of ‘Royalty income in the hands of recipients despite the amendment to section 9(1)(vi) of the Act,” the bench observed while allowing relief to the assessee.

The Mumbai bench of the Income Tax Appellate Tribunal (ITAT) has held that the transponder charges are not in the nature of ‘royalty income’ as per the provisions of the Income Tax Act, 1961.