

## **Payment for Facebook Ads and Other Digital Advertising Companies not subject to TDS as per DTAA: ITAT**

### Fact of the Case

1. Moonfrog Labs Pvt. Ltd is the assessee in the present case
2. Before the Tribunal, the assessee contended that the advertisement expenses were paid among others to Facebook, Ireland, Tapjoy, USA and Motive Inc, USA. They submitted the TRCs, no PE declarations and explained that the advertisement expenses paid to Facebook Inc, and other entities are not liable for TDS under section 195.
3. However, the Assessing Officer held that the advertisement expenses paid to Facebook, Tapjoy and Motive Inc shall be disallowed under section 40(a)(i) for non-deduction of tax at source under section 195.

### Decision of the Case

The bench comprising Judicial Member Ms. Beena Pillai and Accountant Member Mr. Chandra Pujari held that the payments made for advertising through Facebook and other digital advertising companies shall not be subject to TDS under section 195 of the Income Tax Act, 1961 since the same is not in the nature of “royalty” as per the double taxation avoidance agreement (DTAA).