

Vodafone not liable to deduct TDS on international connectivity and carriage charges: Karnataka HC

Case Title: M/S. Vodafone Idea Limited Versus Deputy Director Of Income Tax

Case No.: ITA NO. 160 OF 2015

Facts:

1. The appellant/assessee, Vodafone Idea Ltd., entered into agreements with non-resident telecom operators (NTOs) for international connectivity and carriage services, for which it paid interconnection fees.
2. The assessee entered into a capacity transfer agreement with a Belgian organisation to obtain bandwidth capacity on the Europe-India Gateway (EIG), which utilises a network of submarine cables. It led to the transfer of a portion of the assessee's bandwidth in the EIG to the Belgian company, which in turn transferred a portion of its capacity to the Assessee for a fee.
3. The AO passed an assessment order holding the assessee as 'defaulter' for failure to deduct TDS while making payments to the NTOs and Belgacom.

Hon Karnataka HC held as below:

1. Revenue Authorities have no jurisdiction to tax income arising from extra-territorial sources when facilities are situated outside India where the NTOs and the Belgian entity do not have any presence in India.

2. Since the assessee was entitled to the benefits under the Double Taxation Avoidance Agreement (DTAA), it was not liable to deduct tax at source.

3. Thus, the assessee, Vodafone Idea, is not liable to deduct TDS on interconnectivity usage and bandwidth charges.