TDS ON INTERCONNECTION USAGE CHARGES, ACCESS CHARGES AND PORT CHARGES FOR TELECOM SERVICES

Not liable to TDS (CIT V/s Bharti Cellular Ltd.)

The assessee a cellular service provider, was licensed by the department of telecommunication. The license provided that the calls from one network to another were to be routed through MTNL/BSNL through interconnection points and known as ‘ports’. The assessee paid interconnection port charges to MTNL/BSNL without deducing the TDS thereon, while the department contended that such charges were liable to TDS under section 194J as it amount to fees for technical services

It was held that

The expression fees for technical services means any consideration for rendering of any managerial, technical or consultancy services. The word technical is preceded by words managerial and succeeded by the words consultancy both the words managerial and consultancy involve a human element and both managerial and consultancy services are provided by humans. Hence the word technical would also have to be construed as involving a human element.

The services rendered above did not involve any human element and therefore the services could not be regarded as technical services.

So the interconnect charges or port access charges could not be regarded as fees for technical services and were therefore not liable to TDS.