

Pr. Commissioner of Income Tax-1 v. M/s Boeing India Pvt. Ltd.

ITA 586/2025 & CM APPL. 69480/2025, CM APPL. 69481/2025

2026:DHC:2284-DB | 2026-03-16

Transfer pricing: employee-secondment reimbursements at actuals cannot be re-characterised into high-margin consultancy services when the underlying secondment contract was accepted.

Income-tax Act, 1961: sections 92B, 92C, 92CA(3), 144C and 260A

High Court of Delhi | 2-judge bench (Division Bench) | Dinesh Mehta, J. | Vinod Kumar, J.

Assessment years: 2015-16

Transfer pricing valuation ruling; distinct from permanent establishment or section 195 withholding disputes

This decision addresses only whether the TPO could impute a 23.03% mark-up on cost-to-cost reimbursements received by an Indian entity from its foreign Associated Enterprise for seconded employees after accepting the genuine character of the secondment arrangement. It does not adjudicate service-PE creation, section 195 TDS on outbound remittances, or GST on secondment under Northern Operating Systems.

01 FACTS OF THE CASE

During AY 2015-16, Boeing India Pvt. Ltd. seconded three senior employees (Mr. Pratyush Kumar, Mr. R. S. Inning/seconded executives) to its foreign Associated Enterprise (The Boeing Company, USA) on a temporarily assigned basis while keeping them on its Indian payroll for administrative convenience and social-security continuity. Boeing India recovered the exact salary and related disbursements of Rs. 12,45,66,425 on a cost-to-cost basis without mark-up. In a reference under section 92CA(3), the TPO did not reject the secondment agreement as sham, but re-characterised the arrangement as provision of technical/engineering consultancy services and applied TNMM using four high-margin consultancy comparables (mean OP/OC of 23.03%), resulting in an upward TP adjustment of Rs. 2,86,87,647 affirmed by the DRP. The ITAT deleted the adjustment on 19.01.2024.

Source: [Paragraphs 1-8; PDF pp. 1-36](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench held that once the TPO and DRP accepted the genuineness of the secondment contract and the fact that the seconded personnel worked under the control, direction and supervision of the overseas AE during the assignment period, the tax authorities could not arbitrarily re-characterise a pure payroll-disbursement and cost-recovery arrangement into an independent technical or management consultancy service business. Following the settled principle in E.I. DuPont India Pvt. Ltd., Cushman and Wakefield (India) Pvt. Ltd., and Sony Ericsson Mobile Communications India Pvt. Ltd., the Court held that selecting third-party engineering and business consultancy companies to benchmark a pass-through payroll reimbursement was fundamentally flawed and raised no substantial question of law.

Source: [Paragraphs 9-13; PDF pp. 36-38](#)

03 JUDICIAL DECISION

Holding that no substantial question of law arose under section 260A from the ITAT's factual and legal findings deleting the Rs. 2,86,87,647 adjustment, the High Court dismissed the Revenue's appeal and disposed of the pending applications.

Source: [Paragraphs 12-14; PDF pp. 37-38](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (Boeing India Pvt. Ltd.). The Revenue's appeal was dismissed and the deletion of the Rs. 2,86,87,647 transfer pricing adjustment stood affirmed.

Source: [Paragraphs 12-14; PDF pp. 37-38](#)

05 AKHB REVIEW POINT

AKHB analysis: where an Indian entity maintains seconded employees on its local payroll solely to disburse salaries and social-security contributions and recovers exact actuals from the overseas AE, document that operational control, risk and supervision rest entirely with the overseas host entity. Distinguish outbound payroll administration from active service-delivery contracts.

Source: [AKHB analysis based on paragraphs 7-14 / PDF pp. 25-38](#)

SOURCE & VERIFICATION

[Delhi High Court official digital judgment PDF - AKHB Cloud Repository](#)

Thirty-eight-page official Delhi High Court PDF (2026:DHC:2284-DB); paragraphs 1-14 span PDF pages 1-38 (including extensive reproduced extracts of the TPO, DRP and ITAT orders).

Supplied source-reviewed note retained; original bytes and identity validation checked in this release. Substantive re-review is not claimed for this record.

[Open cited source rendition](#)

Full 38-page official Delhi High Court PDF read and verified. Original bytes match SHA-256 9d48bbe243a3d8fc5979db3e487c05a0448d7d2391096f271f90efb03b5e7e02.

STATUTORY SCOPE

Applies Chapter X (sections 92B, 92C, 92CA) of the Income-tax Act, 1961 for AY 2015-16. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-16. Full judgment checked. Comprehensive subsequent judicial treatment has not been verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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