

Commissioner of Income Tax (International Taxation)-1, New Delhi v. Alcatel Lucent France (and connected appeals with Alcatel Lucent International)

ITA 259/2026 (CM APPL. 19472/2026), ITA 260/2026 (CM APPL. 19475/2026), ITA 261/2026 (CM APPL. 19493/2026), ITA 264/2026 (CM APPL. 19502/2026), ITA 265/2026 (CM APPL. 19503/2026)

2026:DHC:2769-DB | ITA 259/2026, 260/2026, 261/2026, 264/2026 & 265/2026 (Del HC, decided 27.03.2026) | 2026-03-27

Supply of software embedded in telecom hardware is not taxable as 'royalty' under section 9(1)(vi) of the Act or Article 12 of the India-France DTAA.

Income-tax Act, 1961: sections 9(1)(vi), 90 and 260A | India-France Double Taxation Avoidance Agreement (DTAA): Article 12

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

Assessment years: 2010-11, 2011-12, 2014-15, 2015-16, 2016-17

Common oral judgment disposing of 5 appeals across 5 assessment years

This judgment disposes of five appeals: ITA 259/2026 (AY 2014-15), ITA 260/2026 (AY 2010-11), ITA 261/2026 (AY 2016-17), ITA 264/2026 (AY 2011-12), and ITA 265/2026 (AY 2015-16).

01 FACTS OF THE CASE

The Revenue filed five connected appeals (ITA Nos. 259/2026, 260/2026, 261/2026, 264/2026, and 265/2026) under section 260A against the common order of the ITAT dated 23.09.2021 in ITA Nos. 6611/Del/2017 (AY 2014-15), 4738/Del/2018 (AY 2010-11), 6538/Del/2019 (AY 2016-17), 4739/Del/2018 (AY 2011-12), and 7349/Del/2018 (AY 2015-16). The sole question raised by the Revenue was whether the ITAT erred in holding that payments received by Alcatel Lucent France and Alcatel Lucent International for supply of software embedded in hardware equipment were not taxable as 'royalty' under section 9(1)(vi) of the Income-tax Act, 1961 or under Article 12 of the India-France DTAA.

Source: [Pages 1-2 of 3 \(Paragraph 1\) \(DLHC010819952022_1_2026-03-27.pdf\)](#)

02 DISCUSSION BY THE HON'BLE COURT

When the appeals were taken up, Senior Standing Counsel for the Revenue fairly submitted that the question of law raised in the batch stood squarely covered against the Revenue by the decision of the coordinate Bench of the Delhi High Court dated 07.11.2024 in the assessee's own case (CIT (International Taxation)-1, New Delhi v. Alcatel Lucent France, ITA No. 550/2024), which in turn followed the authoritative judgment of the Supreme Court in Engineering Analysis Centre of Excellence Private Limited v. Commissioner of Income Tax & Anr., (2021) 432 ITR 471 (SC).

Source: [Pages 2-3 of 3 \(Paragraph 2\) \(DLHC010819952022 1 2026-03-27.pdf\)](#)

03 JUDICIAL DECISION

Holding that no substantial question of law arose for consideration in light of Engineering Analysis Centre of Excellence Pvt. Ltd. (432 ITR 471) and the coordinate Bench decision in ITA No. 550/2024, the Delhi High Court dismissed all five Revenue appeals along with pending applications.

Source: [Page 3 of 3 \(Paragraph 3\) \(DLHC010819952022 1 2026-03-27.pdf\)](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (Alcatel Lucent France / Alcatel Lucent International); all 5 Revenue appeals dismissed.

Source: [Page 3 of 3 \(Paragraph 3\) \(DLHC010819952022 1 2026-03-27.pdf\)](#)

05 AKHB REVIEW POINT

AKHB analysis: Payments for software embedded in telecom hardware supplied by French non-resident entities continue to be governed by Engineering Analysis (432 ITR 471 (SC)) and are not assessable as royalty under Article 12 of the India-France DTAA.

Source: [Full judgment PDF \(3 pp.\)](#)

SOURCE & VERIFICATION

[Original judgment PDF \(DLHC010819952022_1_2026-03-27.pdf\)](#)

Reviewed from the complete 3-page official High Court judgment PDF (DLHC010819952022_1_2026-03-27.pdf, SHA-256: 42574eb9b93a12f741420e5a8af54568d6481d9cb1af4ec980e0bbc630c42a0b).

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

Primary source verified page-by-page (3 physical pages, 24,662 bytes, SHA-256: 42574eb9b93a12f741420e5a8af54568d6481d9cb1af4ec980e0bbc630c42a0b). Cloud Google Drive File ID: 1mmnGzfulSnoQ-Z4VU1hEV2TE1agfDIvu (<https://drive.google.com/file/d/1mmnGzfulSnoQ-Z4VU1hEV2TE1agfDIvu/view>).

STATUTORY SCOPE

Refers to the Income-tax Act, 1961 and allied statutory rules/circulars as applicable to the relevant assessment years.

LATER TREATMENT

Source checked 2026-10-18. No subsequent Supreme Court reversal or stay is recorded in the source judgment text.

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.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.