Pr. Commissioner of Income-tax (International Taxation), Bengaluru & Anr. v. M/s. Synamedia Limited

ITA No. 113 of 2025

2025:KHC:35592-DB | ITA No. 113 of 2025 (Karnataka High Court, decided 10 September 2025) | 2025-09-10

Software and hardware receipts not royalty on the recorded non-transfer of copyright or commercial exploitation rights; Revenue appeal dismissed.

Income-tax Act, 1961: section 260A | India–UK Double Taxation Avoidance Agreement: royalty issue

High Court of Karnataka | 2-judge bench (Division Bench) | Vibhu Bakhru, Chief Justice | C. M. Joshi, J.

Assessment years: 2021-22

01 FACTS OF THE CASE

Revenue challenged the ITAT order dated 13 December 2023 in IT(IT)A 940/Bang/2023 for AY 2021-22. The UK company received Rs.14,27,24,656 from eight Indian customers for software licences, hardware and support services. The AO treated the receipts as royalty under the India–UK DTAA. The DEN agreement granted non-exclusive, non-transferable use rights and permitted two disaster-recovery backup copies; the other customer agreements were materially similar.

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02 DISCUSSION BY THE HON'BLE COURT

The Court found no transfer of copyright or IPR in the proprietary software and hardware and no material giving Indian customers commercial exploitation rights in the software. It held Engineering Analysis Centre of Excellence, (2021)125 taxmann.com 42(SC), squarely applicable. It also noted the earlier AY 2006-07 ITAT ruling and similar High Court dismissals for AY 2012-13 and AY 2014-15.

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03 JUDICIAL DECISION

No substantial question of law arose. Revenue's appeal was dismissed and the pending application disposed of. The operative order contains no reservation of liberty to revive.

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04 OUTCOME / IN WHOSE FAVOUR

The ITAT's treatment of the AY 2021-22 receipts as non-royalty remained undisturbed. The Revenue challenge failed on the recorded contractual rights and governing precedent.

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05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

Rights granted are the central comparison — The Court did not treat every software receipt as automatically non-taxable. It focused on non-exclusive, non-transferable use and the absence of commercially exploitable IPR. A comparison with another licence therefore requires its reproduction, distribution and exploitation rights, rather than reliance on the supplier's business description.

Backup permission was limited in purpose — The permitted two backup copies were tied to disaster recovery, not a general right to exploit copyright. That factual distinction supported the Court's analysis. Broader copying or sublicensing rights in another contract would need separate evaluation; the mere presence of a backup clause does not answer every royalty dispute.

The receipt pool and appeal remain specifically bounded — DEN was the illustrative agreement, not the only payer: the judgment lists eight customers and finds their terms materially similar. It disposes only of AY 2021-22 in IT(IT)A 940/Bang/2023. References to other years explain consistency; they do not merge those cases or establish an independent holding for all support-service arrangements.

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SOURCE & VERIFICATION

High Court of Karnataka official judgment PDF — AKHB Repository (20250910_KAHC010364702025.pdf)

6-page official High Court of Karnataka order/judgment PDF (20250910_KAHC010364702025.pdf, 67,963 bytes).

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STATUTORY SCOPE

The judgment addresses royalty under the India–UK DTAA and section 260A. It does not print a treaty article number or section 9(1)(vi). The reasoning depends on the contractual rights actually transferred, not the software label alone.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been independently verified.

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