Director/Commissioner of Income Tax (International Taxation) v. Louis Berger International Inc.

I.T.T.A. 387/2016, 47/2019 and 107–111/2022

No neutral citation stated in source | 2023-09-27

NHAI reimbursements of expert-team expenses held outside technical-service fees on concurrent factual findings.

260A | 10(6A)

High Court for the State of Telangana | Division Bench | P. Sam Koshy | Laxmi Narayana Alishetty

Assessment years: 1998-99, 2000-01, 2001-02, 2002-03, 2003-04

01 FACTS OF THE CASE

Louis Berger supplied technical advice and services to NHAI for road construction and widening. NHAI reimbursed transport and related logistics expenses incurred for its expert team. The AO included those sums in technical-service fees; CIT(A) and the Tribunal excluded them. The Court used ITTA 107/2022, AY 2000-01, as the lead case. The seven appeals cover AY 1998-99, 2000-01, 2001-02, 2002-03 and 2003-04. Revenue also argued for 20% rather than 15% tax.

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02 DISCUSSION BY THE HON'BLE COURT

The Court reproduced Tribunal reasoning relying on Industrial Engineering Projects, (1993) 202 ITR 1014, and Tejaji Farasram Kharawalla, (1968) 67 ITR 95, on reimbursable expenditure. The quotation also treated infrastructure development as within the relevant industrial policy for section 10(6A), without separate Central approval on those facts. The Court accepted the concurrent finding that NHAI reimbursed expert-team expenses, not technical-service fees, and found no error or substantial question of law in that factual setting.

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03 JUDICIAL DECISION

All seven appeals were rejected without costs. Pending miscellaneous petitions were closed.

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04 OUTCOME / IN WHOSE FAVOUR

Revenue's challenge failed and the favourable CIT(A)/Tribunal treatment remained intact. The decision rests on the identified expense reimbursements and the concurrent findings; it is not a universal exemption for every payment labelled reimbursement.

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05 EXPERT COMMENTS

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

The character of the receipt follows the found facts — The accepted finding connects NHAI's payments to expenses actually incurred on the expert team's transport and logistics. For comparison with another engagement, the agreement, underlying costs and reimbursement evidence matter. The mere invoice label does not reproduce the factual foundation on which these concurrent orders survived.

Do not import figures from the quoted authorities — The monthly fee and commission percentages in the reproduced precedents describe other taxpayers. They are not Louis Berger's remuneration or a cap on its reimbursement. Likewise, Revenue's 20%-versus-15% submission is an argument recorded here, not a freestanding statement of the rate applicable to every technical-services contract.

The section 10(6A) passage has historical conditions — The quoted Tribunal analysis discusses the specified agreement period and the 1991 industrial policy's coverage of infrastructure. It is not an unconditional exemption for all infrastructure contractors. The High Court's immediate conclusion is that the factual reimbursement findings and cited precedents disclosed no substantial question of law; current statutory or treaty treatment requires separate verification.

Source: PDF p.8

SOURCE & VERIFICATION

Telangana High Court original common judgment - verified repository copy

Complete 14-page supplied source; all pages read.

All 14 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All fourteen pages read and visually inspected. Seven distinct appeals are covered by the common judgment. Figures in quoted precedents are not Louis Berger's contract figures.

STATUTORY SCOPE

Section 260A governs the appeals. Section 10(6A) is discussed in the Tribunal reasoning reproduced by the Court; no general current tax rate or treaty conclusion is established.

LATER TREATMENT

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