

Commissioner of Income Tax (International Taxation) v. Baker Hughes Asia Pacific Limited

Income Tax Appeal No. 30 of 2015

2025:UHC:681-DB | Income Tax Appeal No. 30 of 2015 | 2025-02-10

Non-resident oilfield service provider taxation under section 44BB(2): reimbursement of service tax by ONGC does not form part of aggregate gross receipts under section 44BB(2)(a)/(b) following Full Bench decision and Mitchell Drilling International; section 234B interest question remitted to AO.

Income-tax Act, 1961: sections 44BB(1), 44BB(2), 234B and 260A

High Court of Uttarakhand | 2-judge bench (Division Bench) | G. Narendar, C.J. | Ashish Naithani, J.

Assessment years: See ITA No. 30 of 2015 record

Follows Uttarakhand Full Bench ruling on exclusion of service-tax reimbursement from section 44BB gross receipts

Answers the substantive section 44BB and service-tax inclusion questions against the Revenue while remitting the consequential section 234B interest computation to the AO.

01 FACTS OF THE CASE

The Commissioner of Income Tax (International Taxation) filed ITA No. 30 of 2015 against Baker Hughes Asia Pacific Limited raising substantial questions of law regarding: (i) assessability of oilfield service receipts under section 44BB; (ii) whether service tax reimbursed by ONGC forms part of aggregate amounts under section 44BB(2)(a)/(b); and (iii) liability to interest under section 234B.

Source: [Paragraphs 1-3; PDF pp. 1-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Following the Coordinate Bench decision in ITA No. 34 of 2015 and the Full Bench decision of the Uttarakhand High Court (which followed DIT v. Mitchell Drilling International Pvt. Ltd. (2016) 380 ITR 130 (Del) and DIT v. Schlumberger Asia Services Ltd. (2009) 317 ITR 156 (Uttarakhand)), the Division Bench held that: (1) the questions relating to assessability under section 44BB stand answered against the Revenue; (2) service tax paid by the service provider and reimbursed by ONGC does not form part of the aggregate amount referred to in section 44BB(2)(a) and (b); and (3) the question of liability under section 234B is remitted to the AO to examine on the basis that the receipts fall under section 44BB.

Source: [Paragraphs 1-4; PDF pp. 1-3](#)

03 JUDICIAL DECISION

Disposed of ITA No. 30 of 2015 answering the section 44BB and service-tax exclusion questions in favour of the assessee and remitting the section 234B issue to the Assessing Officer.

Source: [Paragraphs 3-5; PDF pp. 3-4](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee (on section 44BB assessability & service-tax exclusion) / Remand on section 234B - Questions on section 44BB and service-tax reimbursement answered in favour of the assessee; section 234B interest question remitted to the Assessing Officer.

Source: [Paragraphs 3-5; PDF pp. 3-4](#)

05 AKHB REVIEW POINT

AKHB analysis: under the Uttarakhand High Court Full Bench ruling and Mitchell Drilling International, statutory indirect-tax reimbursements (such as service tax or GST) collected/reimbursed without markup do not constitute 'amount paid or payable on account of the provision of services' under section 44BB(2).

Source: [Paragraphs 1-4; PDF pp. 1-3](#)

SOURCE & VERIFICATION

[High Court of Uttarakhand official judgment PDF - AKHB Cloud Repository \(20250210_UKHC010009682015.pdf\)](#)

4-page official High Court of Uttarakhand judgment PDF (20250210_UKHC010009682015.pdf).

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

All 4 physical pages of 20250210_UKHC010009682015.pdf read and verified page-by-page. Original bytes (34,200 bytes) match SHA-256 30f064eb57c5ae6b53bf5333a4082fd0288ed3340e36139aee2e532fb213c881.

STATUTORY SCOPE

Applies sections 44BB and 234B of the Income-tax Act, 1961. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-18. Full primary judgment PDF read page-by-page and verified against the AKHB Google Drive repository. Comprehensive subsequent judicial 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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