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, 44BB(2)(a)/(b), 234B and 260A

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

Assessment years:

Section 234B liability remains open

The section 44BB questions are answered against Revenue. The AO must consider whether any section 234B liability exists; the remand is not confined to calculating interest already held payable.

01 FACTS OF THE CASE

Revenue's appeal against Baker Hughes Asia Pacific raised section 44BB assessability and section 234B liability. Its counsel acknowledged prior coordinate-bench resolution. The Court also identified a Full Bench ruling excluding reimbursement of service tax from section 44BB receipts. No assessment year, contract value or interest amount is stated.

Source: PDF pp. 1-2, paras 1-2

02 DISCUSSION BY THE HON'BLE COURT

The Full Bench passages reproduced here follow Mitchell Drilling, (2016) 380 ITR 130, and note Schlumberger Asia Services, (2009) 317 ITR 156. They exclude ONGC reimbursement representing service tax earlier paid to Government from section 44BB(2)(a)/(b), as distinct from payment for services. A separate proposed rule of uniform inter-High-Court interpretation was expressly left unexamined.

Source: PDF pp. 2-3, para 2 quoting paras 62-65

03 JUDICIAL DECISION

Following ITA 34/2015 and connected appeals, the section 44BB assessability questions were answered against Revenue. The AO must consider whether any section 234B liability exists on the basis that the amounts fall under section 44BB; the assessee may canvass its case before the AO. The appeal was disposed of.

Source: PDF pp. 3-4, paras 3-6

04 OUTCOME / IN WHOSE FAVOUR

Assessee succeeds on section 44BB treatment, with the service-tax issue governed by the quoted favourable Full Bench ruling. Whether section 234B interest is payable remains for the AO; the remand is not a final deletion of interest.

Source: PDF pp. 2-4, paras 2-5

05 EXPERT COMMENTS

Match the reimbursement to the described tax — The quoted holding concerns an ONGC reimbursement representing service tax previously paid to Government. It distinguishes that amount from consideration for mineral-oil services. The source does not mention GST, prescribe a no-markup test or exclude every statutory levy; extending it to those categories requires analysis beyond this order.

The interest remand asks whether liability exists — Paragraph 3 does not merely send a predetermined interest figure for calculation. It requires the AO to consider whether there is any section 234B liability, using section 44BB assessability as the premise, and paragraph 4 preserves the assessee's opportunity to argue. The note must keep that unresolved issue separate from the favourable receipts ruling.

Do not convert an unexamined submission into precedent — Quoted paragraph 63 expressly says it was unnecessary to examine the contention that a central law requires every High Court to follow another High Court's interpretation. Agreement with Mitchell Drilling on the service-tax issue is not adoption of that broader proposition. The present short order applies existing decisions without adding a new factual assessment.

Source: Editorial analysis; source references in the structured comments

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).

All 4 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

The source addresses section 44BB and service-tax reimbursement, with section 234B liability remitted. It does not decide GST treatment or state an assessment year.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not 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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