

Renusagar Power Co. Ltd. v. General Electric Co.

Civil Appeal Nos. 71 and 71A of 1990 and 379 of 1992 (final operative order)

[1993] Supp. 3 SCR 22 | 1993-10-07

Historical Income-tax litigation companion: effect of exemption-writ interim orders on retained contractual interest and the foreign-tax adjustment of damages.

Income-tax Act, 1961: section 10(15)(iv)(c) (historical exemption context) | Foreign Awards (Recognition and Enforcement) Act, 1961: sections 4 and 7 | Foreign Exchange Regulation Act, 1973: section 47 (historical context)

M. N. Venkatachaliah C.J., S. C. Agrawal J. and A. S. Anand J.; judgment of the Court delivered by S. C. Agrawal J. | M. N. Venkatachaliah C.J. | S. C. Agrawal J. | A. S. Anand J.

Date discrepancy disclosed

This note adopts 7 October 1993, expressly cited by the Hon'ble Supreme Court in *Government of India v. Vedanta Limited* (16 September 2020), p.63 footnote56, also matching the JUDIS rendition. The attached SCR report and its report index print 17 October 1993. No Registry corrigendum has been located.

Tax-litigation companion

Historical tax-litigation companion to a private foreign-award enforcement appeal. Not a tax assessment appeal, fresh section 10(15)(iv)(c) exemption ruling, statutory interest award, foreign-tax-credit grant, TDS defence or certification of current arbitration/tax/foreign-exchange law.

Qualified enforcement result

Read the final order: it refuses enforcement-period pendente lite interest but expressly awards 18% future interest on the adjusted rupee balance. The headnote must not replace that operative direction.

01 FACTS OF THE CASE

Renusagar contracted with General Electric for a thermal power plant, with deferred price payments and interest. The contract reduced interest from 6.5% to 6% where Indian tax exemption applied; otherwise any tax withheld had to be paid to the Government and supported by receipts. Historical approvals under section 10(15)(iv)(c) were withdrawn retrospectively. Renusagar challenged that withdrawal in Delhi High Court and secured interim protection subject to security. It nevertheless retained much of the interest without paying either General Electric or the Indian tax authorities. The High Court ultimately restored the exemption.

An ICC tribunal awarded withheld regular interest, delinquent interest, compensatory damages, spare-parts price and costs. In resisting enforcement, Renusagar argued that damages for the tax-litigation period penalised compliance with the High Court stay, and that US tax should first have been deducted from the interest base used to calculate damages. The Hon'ble Supreme Court was considering enforcement under the Foreign Awards (Recognition and Enforcement) Act, 1961, not conducting the earlier exemption assessment or writ proceeding.

Source: [Contract, exemption and interim protection: PDF 13-14](#)

02 DISCUSSION BY THE HON'BLE COURT

The Hon'ble Court held that the statutory enforcement inquiry did not permit reopening an award on its merits. It nonetheless examined the actual interim application and orders in the exemption writ. Those orders restrained implementation of the exemption withdrawal and, after the required security, permitted tax-free contractual interest payments. They did not prevent remitting the interest to General Electric or depositing tax in the Government treasury. Retaining the money for itself was therefore not obedience to the stay; enforcing compensatory damages for that withholding did not offend public policy.

The US-tax objection primarily attacked the quantum of the award rather than its enforcement. The Court also rejected it on the alternative merits analysis. The Gourley principle invoked required both taxable lost earnings and damages that were not themselves taxable. General Electric would pay US tax on the compensatory damages, so reducing the underlying interest for US tax would not establish unjust enrichment. The Court did not decide an Indian or US assessment, grant foreign tax credit, or hold that unjust enrichment necessarily constituted a separate public-policy head.

FERA was considered separately. A proceeding to obtain judgment was not barred merely because permission was required for enforcement/remittance. Compound interest was not inherently contrary to Indian public policy. These historical holdings should not be turned into a statement of present arbitration or foreign-exchange law.

Source: [Tax-stay and damages reasoning: PDF 62-72](#)

03 JUDICIAL DECISION

All three appeals were dismissed and the enforcement decree affirmed with specific adjustments. The Court recorded US\$12,333,355.14 as the award plus specified interest to 15 October 1986, credited US\$6,289,800 for earlier payments, and fixed the balance at US\$6,043,555.14, equivalent to Rs 19,05,53,293.56 at the stated Rs 31.53 rate. It awarded 18% future interest on that rupee balance from the judgment until payment.

Enforcement-period pendente lite interest was refused and the interim 10% direction recalled. Each party bore its own costs. The application to substitute Hindalco following amalgamation was rejected because the scheme preserved proceedings in Renusagar's name.

Source: [Final operative order and amounts: PDF 95](#)

04 OUTCOME / IN WHOSE FAVOUR

General Electric on enforceability of the award and rejection of the tax-stay and US-tax reduction objections. Qualified outcome: its own conversion-date appeal failed; pendente lite interest was refused and the interim 10% direction recalled, while 18% future interest was ordered. Neither party was granted a tax exemption, refund or statutory interest remedy by this judgment.

Source: [Interest qualifications and final relief: PDF 91-95](#)

05 AKHB REVIEW POINT

Read the exact prayer, operative stay, security condition, exemption approval and payment clause before treating tax litigation as authority to retain a counterparty's money. Reconcile contractual amounts, tax actually deposited, certificates and any amounts remitted. A stay against tax collection or exemption withdrawal is not automatically a payment moratorium or immunity from contractual consequences.

Where tax is invoked to reduce damages, distinguish tax on the lost receipt from tax on the damages themselves and obtain jurisdiction-specific evidence. This case's alternative US-tax reasoning cannot replace analysis of Indian withholding, grossing-up, treaty credits or assessment provisions. Its enforcement posture also limits use of the merits discussion. These are AKHB practical observations, not additional judicial directions. Subsequent treatment and current-law operation have not been comprehensively verified.

Source: [Tax-stay scope: PDF 62-64](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

All 95 report pages read, including the complete judicial text at SCR 32-116, all nine issues, tax-related interim orders, damages discussion and final calculation. Later official judgment inspected only for date corroboration, not comprehensive later treatment.

[Open cited source rendition](#)

Editorial date reconciliation preserves the original SCR bytes and printed discrepancy; the later Court citation is corroboration, not a Registry correction. Official corroboration: https://api.sci.gov.in/supremecourt/2020/11594/11594_2020_38_1501_24007_Judgement_16-Sep-2020.pdf#page=63

The final order identifies cross-appeal 379/1992, while the opening narrative inconsistently prints 370/1992. The operative docket is used.

STATUTORY SCOPE

This is foreign-award enforcement under the 1961 Act. Section 10(15)(iv)(c) explains the antecedent tax-exemption writ and contractual payments; the Court did not determine an Income-tax assessment or grant a new exemption or foreign tax credit.

LATER TREATMENT

Source checked 2026-10-18. Historical judgment. Subsequent treatment and current arbitration, foreign-exchange and tax law have not been comprehensively verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 95](#)

SHA-256: 4e77b94be7b73b247211ed590663fc741197dd409dc0c45df2e2df70d9cba80d

[official later judgment date corroboration - PDF pages: 70](#)

SHA-256: 4e030e1af91333129c0454f7fba878842356144cc8ef9b8159c2cf4599d85433

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