

GE India Technology Centre Private Ltd. v. Commissioner of Income Tax & Anr.

Civil Appeal Nos. 7541-7542 of 2010 / Civil Appeal Nos. 7543-7544, 7545-7548, 7549-7758, 7759-7764, 7765-7767, 7768, 7769, 7770, 7771-7772, 7773, 7774, 7775-7776, 7777 and 7778 of 2010

[2010] 10 SCR 1142 | 2010-09-09

Does a remittance to a non-resident itself trigger section 195 withholding, making an application under section 195(2) essential even when the payer contends that no part of the payment is chargeable in India?

195(1) | 195(2) | 195(3) | 4 | 5 | 9

2-judge bench | S.H. Kapadia, CJI | K.S. Panicker Radhakrishnan, J.

Assessment years: See the source-scope notes; no year inferred.

Royalty merits were remanded

GE India settles the chargeability threshold for section 195 in its historical setting. It did not finally decide whether these software payments were royalty. No current-law or Income-tax Act, 2025 equivalence is certified.

01 FACTS OF THE CASE

In this batch, the Court described the leading facts of Sonata Information Technology Ltd.: distributors imported pre-packaged, shrink-wrapped standard software from Microsoft and other overseas suppliers and treated their remittances as purchase prices. The TDS officer regarded the licence to use the software as making the payments royalty deemed to accrue or arise in India; the Commissioner (Appeals) agreed. The Tribunal instead held that the payments were not royalty and generated no taxable Indian income (paragraph 3).

Before the Karnataka High Court, Revenue argued that a payer could not assert non-chargeability without first applying under section 195(2) and obtaining permission not to deduct. Relying on Transmission Corporation, the High Court accepted that approach without deciding the royalty merits. The payers appealed (paragraph 4).

Source: [reported judgment / paragraphs Paragraphs 2-4 / PDF pages 7, 8 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The words requiring a sum to be chargeable under the Act condition the obligation under section 195(1). The collection machinery must be read with the charging provisions, including sections 4, 5 and 9 and relevant treaty provisions. A remittance wholly outside the Indian charge does not become taxable merely because it is paid abroad, and section 195(2) is not a universal information or clearance requirement for every remittance (paragraphs 7-9).

The Court distinguished wholly unchargeable payments from composite payments containing taxable income. Section 195 extends to the latter even though the entire receipt is not income. The appropriate-proportion mechanism in section 195(2) addresses the taxable component: where part is taxable and the payer is unsure of the amount to deduct, the Court described an application to the TDS officer as the safeguard for determining it (paragraph 7).

Transmission Corporation involved a supply-and-installation arrangement with erection and commissioning in India admittedly producing taxable income. Its rejection of a pure-income-only test, and its requirement to seek determination before deducting on a lesser component rather than the gross mixed payment, did not mean that every wholly unchargeable payment requires withholding. The High Court had taken that ruling out of its composite-payment context (paragraph 10). Administrative concerns about revenue leakage could not remove the statutory chargeability condition; the Court separately noted expenditure-disallowance and information safeguards in their historical setting (paragraph 9).

Source: [reported judgment / paragraphs Paragraphs 5-10 / PDF pages 9, 10, 11, 12, 13, 14, 15, 16, 17 / judicial text](#)

03 JUDICIAL DECISION

The Court allowed the appeals, set aside the High Court judgments and remitted the cases for fresh consideration of the royalty and Indian-taxability merits. The High Court was to decide whether the Tribunal was justified in finding that the software payments were not royalty and did not give rise to taxable Indian income. There was no order as to costs (paragraphs 11-13).

Source: [reported judgment / paragraphs Paragraphs 11-13 / PDF pages 17, 18 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Appellant payers on the legal withholding threshold and entitlement to reconsideration

Appeals allowed; High Court judgments set aside; royalty and chargeability merits remitted to the High Court; no costs

Section 195 threshold decided; ultimate software-royalty and tax liability questions expressly left for determination on remand

Does not finally exempt the software payments, displace the machinery for taxable composite payments, or decide liability under later statutory amendments.

Source: [reported judgment / paragraphs Paragraphs 12-13 / PDF pages 18 / judicial text](#)

05 AKHB REVIEW POINT

Keep three steps separate: identify the payment and its applicable Indian charge, determine whether a taxable component exists, and then address withholding on that component through the applicable machinery. GE India does not permit a payer to avoid a chargeable payment merely by calling it a purchase price; equally, remittance alone cannot supply the missing charge.

Cite the operative remand accurately. This judgment resolved the threshold interpretation, not the final royalty characterization. Transmission Corporation should be read alongside paragraph 10 so that its mixed-payment setting is not turned into a blanket tax-on-all-remittances rule.

Source: [reported judgment / paragraphs Paragraphs 7-10 and 12-13; editorial application / PDF pages 11, 12, 16, 17, 18 / judicial text](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

40(a)(i); 90; 91; 192; 194C; 194EE; 194F; 195(6); 199; 200; 201; 201(1A); 221; 237; 276B

OTHER GOVERNING STATUTES

1.

Act: Indian Income-tax Act, 1922

Sections: 18(3B)

Role: Historical comparison in paragraph 7

2.

Act: Income-tax Rules, 1962

Sections: Rule 30

Role: Payment of tax deducted, noted in paragraph 7

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.H. Kapadia, CJI

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

BOUNDED COMPARISON WITH THE SPECIFIED DECISION

1.

Case: Transmission Corporation of A.P. Ltd. v. Commissioner of Income Tax

Source url: [Open cited source](#)

Source asset id: S 1999 1 504 516

Extent read: Full bounded judicial text of the 1999 reported judgment separately read in this batch

Treatment in this judgment: Paragraph 10 explains and distinguishes its composite-payment setting; it is not overruled.

Comprehensive later treatment: False

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 18 PDF pages; SHA-256

f1c7a56de9fe19d8cc0bad3b3a30361fa14f60f6aaacdbeafa1871e4dd217b77. Original bytes preserved.

Judicial paragraphs 1-13 on physical pages 7-18; editorial headnote and case-reference material on pages 1-6 are distinguished from the judicial reasons.

Full bounded judicial text read from the cached page extraction; identity, author, disposition and selected extraction anomalies visually checked against the preserved PDF. Public mirror provenance and checksum match the repository index; no independently obtained signed original is claimed.

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The judgment refers to the relevant assessment years without listing them. Paragraph 9 states that the cases concern periods before section 195(6) took effect on 1 April 2008; no assessment years are inferred.

The leading factual narrative is expressly Sonata Information Technology Ltd.; it should not be presented as a detailed finding specific to every GE India group appellant.; The connected appeal range 7549-7758 of 2010 is reproduced as printed on reported page 1147 and visually checked; no independent docket reconciliation is claimed.; The statutory extracts, refund discussion and descriptions of section 195(6) reflect the historical judgment. They are not a current compliance manual.; CBDT Circular No. 728 dated 30 October 1995 and authorities other than Transmission Corporation were considered only as discussed in this judgment; their complete texts were not separately reviewed.

STATUTORY SCOPE

Historical judgment review only. No automatic mapping to the Income-tax Act, 2025 or certification of present law or procedure.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial treatment or current-law audit. Any specific cross-case comparison actually read is identified separately.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 18

SHA-256: f1c7a56de9fe19d8cc0bad3b3a30361fa14f60f6aaacdbeafa1871e4dd217b77

reported judgment - PDF pages: 13

SHA-256: d0e59a58a87a9d5c69e43e4c8f83bc863a77bd676d1b74d59bfa648c303774d9

Related note: The Transmission Corporation of A.P. Ltd. and Anr. v. The Commissioner of Income Tax, A.P.

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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