

Formula One World Championship Ltd. v. Commissioner of Income Tax, International Taxation-3, Delhi & Anr.

Civil Appeal No. 3849 of 2017 / Civil Appeal No. 3850 of 2017 / Civil Appeal No. 3851 of 2017

[2017] 2 SCR 152 | 2017-04-24

Whether FOWC carried on its own business through a fixed place at its disposal at the Buddh International Circuit under Article 5(1) of the India-UK DTAA, notwithstanding Jaypee's ownership and the short race period; and the resulting scope of section 195 withholding and unresolved attribution.

9(1)(i) | 195 | 195(2)

Two-judge bench | A. K. Sikri, J. | Ashok Bhushan, J.

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

Historical, fact-specific PE finding; attribution and consequential liability remain open

Formula One found a fixed-place PE on the integrated control and recurring event arrangements before it. It does not make every sporting venue, access arrangement or brief event a PE. Only income attributable to the Indian PE and chargeable in India was subject to the withholding conclusion; the amount and Jaypee's bona-fides/penalty etc. plea were left for the Assessing Officer. Royalty was unchallenged and dependent-agent PE was not decided. Current treaty/statutory law and comprehensive later treatment remain unverified; no automatic Income-tax Act, 2025 mapping.

[paragraphs 11, opening and quoted disposal test / PDF pages 18, 19 / judicial text; paragraphs 12-13 / PDF pages 24, 25 / judicial text](#)

01 FACTS OF THE CASE

FOWC, a UK-incorporated and UK-resident company, held the commercial rights to the Formula One Championship. Its arrangements with the governing body and participating teams enabled it to select promoters and venues and commercially exploit the race events. Jaypee owned the Buddh International Circuit. Under the RPC dated 13 September 2011, FOWC granted Jaypee the right to host, stage and promote the Indian Grand Prix for US\$40 million. A separate Artwork Licence Agreement permitted limited mark/intellectual-property use for US\$1 million; that separate sum is not the RPC consideration adjudicated here. Paragraph 10 records races in India in 2011, 2012 and 2013 (paragraphs 7-12; physical pages 9-12).

The RPC initially covered 2011-2015, with a contractual option for a further period up to five years. It required access to the pit, paddock and surrounding areas for FOWC, its affiliates and others from fourteen days before the race until seven days afterwards. FOWC controlled passes to restricted areas and accreditation, recording and media exploitation. Linked agreements allocated circuit/media and title-sponsorship rights, paddock rights and television-feed services among its affiliates. The Court considered these arrangements together rather than treating the promoter label or land ownership as conclusive (paragraph 39, physical pages 31-38; paragraphs 67-70, pages 56-62).

FOWC and Jaypee sought advance rulings on royalty, PE and withholding. The AAR treated the RPC payment as royalty but found no PE. On 30 November 2016 the Delhi High Court reversed both conclusions: the RPC consideration was not royalty, but FOWC had a fixed-place PE, and Jaypee had to deduct appropriate tax. FOWC and Jaypee appealed the adverse PE/withholding result; Revenue appealed the rejection of its dependent-agent case. Revenue did not challenge the no-royalty result (paragraphs 1-5 and 12, physical pages 7-8 and 11-12; paragraph 44, page 41).

Source: [reported judgment / paragraphs 1-13 / PDF pages 7, 8, 9, 10, 11, 12 / judicial text](#); [reported judgment / paragraphs 39: RPC extracts / PDF pages 31, 32, 33, 34, 35, 36, 37, 38 / judicial text](#); [reported judgment / paragraphs 44: appeals and representation / PDF pages 41 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

Domestic nexus and treaty threshold. The Court set out section 9(1)(i), including the limitation of income attributable to Indian operations in Explanation 1(a), and explained that an Indian PE establishes a business connection. It then applied the treaty's own fixed-place conditions. Article 5(2)'s examples are inclusive, but an unlisted establishment still has to satisfy Article 5(1): a fixed place of business through which the enterprise's business is wholly or partly carried on. The treaty exclusions in Article 5(3) remain relevant (paragraphs 15-21 and 66, physical pages 13-19 and 56). This does not make every domestic business connection a treaty PE.

Disposal and control. Ownership or a lease is unnecessary, but mere access or presence does not suffice. The physical place must be available for the enterprise's own business, with the degree of control assessed against the relevant activity. The Court discussed commentary and examples distinguishing a place at the enterprise's disposal from visits or performance of work solely on the premises owner's project. It then examined the whole contractual arrangement for the real and dominant control over the event (paragraphs 24-36, physical pages 21-30; paragraphs 67-69, pages 56-61).

Application to this circuit. The Court accepted the High Court's analysis of the RPC and connected agreements: FOWC controlled the commercial exploitation, participation framework, restricted access, broadcasting and relevant uses of the circuit. The race physically held in India was integral to monetising those rights. Jaypee's construction expenditure, title to the land and ability to hold other events at other times did not answer who controlled the circuit for this Championship. The decision concerns that identified venue and period, not a finding that every venue used by an overseas sporting enterprise is its PE (paragraphs 68-69 and 73-76, physical pages 57-61 and 63-67).

Duration. The three-day-race argument failed in the context of full control throughout the business event, the pre- and post-race access period and the recurring five-year contractual model. The Court adopted the High Court's relative assessment of permanence for this business: the presence was not merely fleeting or sporadic. This is not a freestanding three-day rule, nor does it erase the disposal, business-through-the-place or stability requirements (paragraphs 68(iii) and 70-72, physical pages 58 and 61-63).

Withholding, attribution and judicial review. Because FOWC had taxable business income through the Indian PE, Jaypee had an obligation under section 195. But only the part attributable to that PE and chargeable in India was relevant; the Assessing Officer was to determine the amount. The Court relied on GE India and referred to section 195(2) in addressing the appropriate chargeable portion. Jaypee could present its bona-fides plea against penalty etc. at that stage, with no opinion expressed either way. The High Court's Article 226 review was upheld because it examined legal issues on facts drawn from the documents (paragraphs 77-79, physical pages 67-68).

Source: [reported judgment / paragraphs 14-21 / PDF pages 13, 14, 15, 16, 17, 18, 19 / judicial text: reported judgment / paragraphs 24-36 / PDF pages 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 / judicial text: reported judgment / paragraphs 65-78 / PDF pages 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67 / judicial text: reported judgment / paragraphs 79 / PDF pages 67, 68 / judicial text](#)

03 JUDICIAL DECISION

FOWC had a fixed-place PE at the Buddh International Circuit under Article 5(1), and the associated Indian business income attracted section 195 withholding. FOWC's and Jaypee's appeals were dismissed subject to the attribution and open-issue observations. The Assessing Officer remained to determine how much FOWC income was attributable to the PE; no taxable-profit figure, tax rate or gross-payment assessment was fixed. Revenue's dependent-agent appeal was disposed of as academic without deciding that issue. The unchallenged High Court no-royalty conclusion remained final in these proceedings. No costs (paragraphs 5, 12 and 76-81).

Source: [reported judgment / paragraphs 5 and 12 / PDF pages 8, 12 / judicial text](#); [reported judgment / paragraphs 76-81 / PDF pages 66, 67, 68 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on fixed-place PE and withholding obligation; attribution and consequential liability reserved; no merits decision on Revenue's dependent-agent appeal

FOWC and Jaypee appeals dismissed subject to observations; Revenue appeal disposed of as academic; no costs

Final finding of fixed-place PE and section 195 obligation on the chargeable attributable component; quantum and Jaypee's consequential-liability plea left for the Assessing Officer

No universal sporting-venue or short-visit PE rule; no tax on the whole US\$40 million by automatic attribution; no fresh Supreme Court royalty decision; no dependent-agent ruling; no interest or penalty exoneration; no transfer-pricing or profit-attribution formula.

Source: [reported judgment / paragraphs 77-81 / PDF pages 67, 68 / judicial text](#)

05 AKHB REVIEW POINT

Build the PE analysis from the specific foreign enterprise's business, identified place, practical use/control and duration in that business. Here the cumulative rights and conduct mattered: the event could not be commercially exploited in the manner found without FOWC's active participation and circuit control. A foreign rights holder, a local promoter, group affiliation, a venue booking, access passes or a short event alone is not a substitute for those findings. The Court's whole-arrangement analysis should not be converted into automatic pooling of every affiliate's taxable income.

Keep nexus, PE existence, attributable profit and withholding separate. The judgment establishes the PE and obligation, while leaving the chargeable attributable amount to the Assessing Officer. It does not tax the gross US\$40 million as profit or provide an attribution percentage, and the bona-fides contention was not accepted as an exemption. The RPC no-royalty result is procedural finality at Supreme Court level, not a new general ratio that event or trademark payments cannot be royalties.

A narrowly checked later comparison is E-Funds (24 October 2017). Its paragraph 11 invoked Formula One's disposal test, and paragraphs 12-13 rejected a fixed-place PE on the different India-US outsourcing record where a place at the US companies' disposal had not been established. That reinforces the need for proof of the foreign enterprise's own business through its place, rather than extending Formula One into a group-company shortcut. This comparison does not certify all later treatment or current treaty law.

Source: [reported judgment / paragraphs 27, 29 and 32-36 / PDF pages 22, 24, 26, 28, 29, 30 / judicial text](#); [reported judgment / paragraphs 66-81 / PDF pages 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68 / judicial text](#); [reported judgment / paragraphs 11, opening and quoted disposal test / PDF pages 18, 19 / judicial text](#); [reported judgment / paragraphs 12-13 / PDF pages 24, 25 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Appeal group

1.

Appellant: Formula One World Championship Ltd.

Case numbers: Civil Appeal No. 3849 of 2017

Disposition: Dismissed, subject to the Court's observations, including attribution to be determined by the Assessing Officer

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: 1-5

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 67; 68

Paragraphs: 78 and 80

Source role: judicial text

2.

Appellant: Jaypee Sports International Ltd.

Case numbers:

Case number note: One of companion Civil Appeal Nos. 3850 and 3851 of 2017; exact individual number not assigned in the inspected captions.

Disposition: Dismissed subject to observations; section 195 obligation upheld only for the appropriate chargeable income, with bona-fides/penalty etc. plea left open

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 41

Paragraphs: 44

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 67; 68

Paragraphs: 77-80

Source role: judicial text

3.

Appellant: Revenue, described in paragraph 1 as Union of India and in paragraph 81 as Commissioner of Income Tax

Case numbers:

Case number note: One of companion Civil Appeal Nos. 3850 and 3851 of 2017; exact individual number not assigned in the inspected captions.

Disposition: Disposed of because the dependent-PE issue had become academic; not examined on merits

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: 1

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 41

Paragraphs: 44

Source role: judicial text

3.

Source url: [Open cited source](#)

Pdf pages: 68

Paragraphs: 81

Source role: judicial text

Issue results

1.

Issue: Fixed-place PE and disposal

Result: Buddh International Circuit was a fixed place at FOWC's disposal through which it carried on business during the relevant event arrangement

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 56; 57; 58; 59; 60; 61

Paragraphs: 66-69

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 66; 67

Paragraphs: 74-76

Source role: judicial text

2.

Issue: Short duration and permanence

Result: The three-day event did not defeat PE in the recurring, controlled access arrangement; permanence assessed in the context of this business

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 58

Paragraphs: 68(iii)

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 61; 62; 63

Paragraphs: 70-72

Source role: judicial text

3.

Issue: RPC royalty character

Result: High Court's no-royalty conclusion had attained finality because Revenue did not challenge it; Supreme Court merits reconsideration unnecessary

In whose favour: FOWC/Jaypee retained the unchallenged High Court result

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: 5

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: 12

Source role: judicial text

4.

Issue: Dependent-agent PE

Result: Academic; Revenue appeal disposed of without examination of the issue

In whose favour: Not decided on merits

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 68

Paragraphs: 81

Source role: judicial text

5.

Issue: Section 195 and attribution

Result: Withholding obligation upheld; limited to appropriate income attributable to the Indian PE and chargeable in India; amount for the Assessing Officer

In whose favour: Revenue on obligation; appellants' attribution limitation accepted

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 67

Paragraphs: 77-78

Source role: judicial text

6.

Issue: Interest/penalty and bona fides

Result: Jaypee could press its bona-fides plea against penalty etc. before the Assessing Officer; Court expressly expressed no opinion either way

In whose favour: Reserved, without relief on merits

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 45; 46

Paragraphs: 53-54: submissions

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 67

Paragraphs: 78: reservation

Source role: judicial text

7.

Issue: Article 226 review of AAR ruling

Result: Objection rejected; High Court examined legal issues on documentary facts

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 67; 68

Paragraphs: 79

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

4; 5(2)(b); 6; 9(1)(vi); 92F(iii); 92F(iiiia); 195(3); 199; 201; 237; 245R; 245RR

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. K. Sikri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

VERIFIED RELATIONSHIPS BETWEEN SPECIFIED JUDGMENTS

1.

Earlier case id: sc-2017-04-24-formula-one-world-championship

Later case id: sc-2017-10-24-e-funds-it-solution

Relationship: fixed place disposal test relied on with no PE on different outsourcing facts

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 18; 19

Paragraphs: 11, opening and quoted disposal test

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 24; 25

Paragraphs: 12-13

Source role: judicial text

Scope limit: Only this test-and-application comparison was freshly checked. E-Funds concerns India-US treaty facts; it does not overrule Formula One, and this is not a comprehensive citator or an extension to every PE category.

TREATY PROVISIONS DECIDED AND QUESTIONS RESERVED

Name: India-United Kingdom Double Taxation Avoidance Agreement

Operative articles: 5(1); 5(2); 5(3)

Articles not decided on merits: 5(4); 5(5); 13

Note: Fixed-place PE under Article 5(1) was decided. Article 5(2) was illustrative and Article 5(3) excluded specified activities. Dependent-agent PE under Articles 5(4)-(5) became academic. The RPC Article 13 royalty conclusion stood because Revenue did not challenge it; the Supreme Court did not conduct a fresh royalty determination. No freestanding service-PE holding or numerical duration threshold under Article 5(2)(k) was made.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 68 PDF pages; SHA-256

deb206ae781a3d17ee9d476af3d9922f243c8327f0b4d55a6cc2f4d86a0e8261. Original bytes preserved.

Paragraphs 1-81 on physical PDF pages 7-68 (SCR 158-219). Pages 1-6 and the beginning of page 7 are editorial headnote, case-law, identity and appearance material. No neighbouring judgment within the judicial boundary.

[Open cited source rendition](#)

No numerical assessment year is identified in the bounded judicial text. This is a transaction-based advance-ruling dispute concerning the RPC of 13 September 2011. Paragraph 10 records races in 2011, 2012 and 2013; those event years are not converted into inferred assessment years.

The SCR rendition gives only lead Civil Appeal No. 3849 of 2017, identifiable as FOWC's appeal. The official Enscript caption and appended record confirm companion Civil Appeal Nos. 3850 and 3851 of 2017. The inspected captions do not individually assign those two numbers to Jaypee and Revenue; no allocation is inferred from listing order. The disposition is separated by appellant below.

Section 9(1)(i), including the discussion of Explanation 1(a) attribution and Explanations 2 and 4, supplies the domestic business-connection framework; section 195 and subsection (2) concern withholding on the chargeable component. Sections 4, 5 and 6 are background, and section 92F(iii) is a contextual definition, not an independent transfer-pricing holding. Section 9(1)(vi) is expressly skipped because the RPC royalty finding was unchallenged. Section 201 and advance-ruling provisions arise in Jaypee's submissions; no interest or penalty immunity is granted. Sections 195(3), 199 and 237 appear through the GE India discussion/quotations, without a separate new ruling. The printed reference to section 245QQ in paragraph 53's continuation is not promoted into an operative statutory tag.

The 68-page preserved SCR rendition is the substantive primary source. Headnotes and case-law tables are editorial, not the Court's reasoning. Its judicial paragraphs 1-81 and physical pages are used throughout.; The official Supreme Court Enscript rendition was checked only for metadata on physical pages 1 and 50. It confirms all three appeal numbers, but does not identify which of the two companion numbers belongs to Jaypee and which to Revenue. No such allocation is invented.; There are apparent drafting/rendition inconsistencies: paragraph 38 says ten years for the rights transfer while paragraphs 9, 68 and 73 describe a hundred-year structure; FOM/FOAM references and the direction of the service arrangement vary. This note does not silently reconstruct or certify a corporate-contract chain from those inconsistencies.; The RPC clause 11 states fourteen days before and seven days after the race. The adopted High Court passage also describes access up to six weeks. Both are source formulations; the note does not silently equate them or derive an exact general day threshold.; Paragraph 21's last sentences refer to an independent agent inconsistently with the immediately quoted Article 5(5), and paragraph 35 introduces its examples as negative although some describe PEs. Rely on the actual treaty wording and the final issue disposition, not those introductory labels.; Physical page 60 is visually distorted and its OCR is poor; the relevant RPC controls were visually checked and cross-checked against the earlier, clearer clause extracts on pages 35-38.; The leading statement in paragraph 77 about non-resident payments must be read with paragraph 78's express chargeability/attribution limit. This note does not state that every foreign remittance requires deduction or that every wholly non-chargeable payment requires a section 195(2) order.; No numerical assessment year is supplied. The treaty and statutory text are those discussed in this historical proceeding; no current consolidated-text or comprehensive subsequent-law verification is claimed.; E-Funds quotes Formula One using a different paragraph numbering: its quotation labelled 32 corresponds to paragraph 27 of this preserved Formula One rendition. This note uses the actual paragraph numbers in each cited source; it does not silently transpose them.; The search for official metadata incidentally surfaced a later banking-guarantee case, but that case was not substantively reviewed and no later-treatment conclusion is drawn from the search snippet.

STATUTORY SCOPE

Historical 1961 Act/India-UK treaty and transaction-specific PE decision. No automatic mapping to the Income-tax Act, 2025 or assertion that present treaty/statutory wording is identical.

LATER TREATMENT

Source checked 2026-10-04. Only the bounded E-Funds disposal-test comparison specified above was checked. No comprehensive later-treatment, post-assessment outcome, treaty-amendment or current-law audit was performed.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 68](#)

SHA-256: deb206ae781a3d17ee9d476af3d9922f243c8327f0b4d55a6cc2f4d86a0e8261

[reported judgment - PDF pages: 42](#)

SHA-256: 212dda4e3430bfd30eb1de41af44e0460158b3232fe0f561cd23b0626be1aee2

[official court enscript rendition - PDF pages: 50](#)

SHA-256: d3fb9833540084fa37887cd3b0922fbc5d24fd6ef71078341be9ff78534d0c11

[Related note: Assistant Director of Income Tax-I, New Delhi v. E-Funds IT Solution Inc.](#)

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.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.