

M/s. Palam Gas Service v. Commissioner of Income Tax

Civil Appeal No. 5512 of 2017

[2017] 3 SCR 836 | 2017-05-03

Whether section 40(a)(ia) applies only to amounts outstanding as payable, or also to freight expenses already paid to sub-contractors without the required deduction of tax at source.

40(a)(ia) | 194C | 200

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

Assessment years: 2006-07

Paid/payable holding; distinguish later timing and 30% amendments

Palam Gas concerns AY 2006-07 and rejects immunity merely because an expense was already paid. It does not decide the 2010 remittance-timing amendment or the 2014 30% reduction. Shree Choudhary later followed Palam Gas and distinguished those amendments, applying the 30% change from AY 2015-16 rather than to its AY 2005-06 facts. Verify the applicable year and statutory relief; no present-law or Income-tax Act, 2025 equivalence is certified.

[paragraphs 16-16.12](#) / [PDF pages 36, 37, 38, 39, 40, 41, 42, 43, 44](#) / [judicial text](#)

01 FACTS OF THE CASE

The assessee sold LPG cylinders at Palampur and had a carriage contract with Indian Oil Corporation, Baddi. It received freight of Rs. 32,04,140 and used three other persons to perform the transport, paying them Rs. 20,97,689. The Assessing Officer treated those arrangements as sub-contracts under section 194C and disallowed the Rs. 20,97,689 freight expense under section 40(a)(ia) because tax was not deducted at source (paragraphs 3-5).

For AY 2006-07 the Commissioner (Appeals), Tribunal and Himachal Pradesh High Court upheld the disallowance. The assessee's particular objection, raised below and before the Supreme Court, was that section 40(a)(ia) used payable and therefore could not reach expenses already paid (paragraphs 4-7).

Source: [reported judgment](#) / [paragraphs 3-7](#) / [PDF pages 4, 5, 6](#) / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read section 40(a)(ia) with the TDS scheme. Section 194C requires deduction when the sum is credited to the contractor's account or actually paid, whichever occurs earlier. Section 200 then requires deposit of the amount deducted within the prescribed time; the judgment also quoted Rule 30(2). These duties were mandatory, and the Court approved the Punjab and Haryana High Court's reasoning in P.M.S. Diesels, supported by the Calcutta and Madras decisions (paragraphs 8-13).

The grammatical difference between paid and payable did not determine the scope of this default provision. There was no basis to confine it to assessees using mercantile accounting or to exclude those using cash accounting. The purpose was compliance with withholding and identification of taxpayers across the applicable Chapter XVII-B scheme (paragraph 14).

Section 201's default consequences operate without prejudice to other consequences. Section 40(a)(ia) supplies one such consequence by denying the relevant expenditure deduction. Read together, these provisions reach both paid and payable amounts where the underlying withholding requirement is breached; otherwise payment without TDS would improperly escape the prescribed consequence (paragraph 15). The case does not create a TDS duty for every expense merely because a liability exists: the applicable withholding provision, including its credit/payment trigger, remains the foundation.

The Allahabad High Court's Vector Shipping view was incorrect on this question. The dismissal in limine of the earlier special leave petition did not amount to approval of that view. The Court expressly overruled Vector Shipping on the paid/payable interpretation and approved the contrary High Court approach (paragraphs 17-18).

Source: [reported judgment / paragraphs 8-13 / PDF pages 6, 7, 8, 9 / judicial text](#); [reported judgment / paragraphs 14-15 / PDF pages 10, 11, 12, 13 / judicial text](#); [reported judgment / paragraphs 17-18 / PDF pages 14 / judicial text](#)

03 JUDICIAL DECISION

Section 40(a)(ia) covers expenses already paid as well as amounts still payable when the relevant TDS obligation is defaulted. The question was answered against the assessee, the High Court result and Rs. 20,97,689 freight disallowance were sustained, and Civil Appeal No. 5512 of 2017 was dismissed with costs (paragraphs 5 and 15-19).

Source: [reported judgment / paragraphs 15-19 / PDF pages 12, 13, 14 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeal dismissed with costs; paid-expenditure defence rejected and disallowance sustained

Final determination of the paid/payable section 40(a)(ia) issue for AY 2006-07

The ruling does not determine the retrospectivity of the 2010 remittance-timing change or the 2014 reduction to 30%, nor does it certify present TDS rates, deadlines, thresholds or payee-based relief.

Source: [reported judgment / paragraphs 5 / PDF pages 5 / judicial text](#); [reported judgment / paragraphs 18-19 / PDF pages 14 / judicial text](#)

05 AKHB REVIEW POINT

Start with whether the payment attracts the relevant withholding provision and when its credit/payment trigger occurred. If that duty was breached, the fact that the expense was fully paid before year-end does not itself protect the deduction. Separate cash/mercantile accounting from the statutory TDS trigger rather than treating paid expenses as a safe category.

The bounded later judgment check matters. Shree Choudhary Transport Company (29 July 2020), paragraphs 16-16.12, expressly followed Palam Gas and rejected the request to reconsider it. In separate paragraphs 19-19.7 it distinguished the curative 2010 remittance-timing relief, explained through Calcutta Export Company, from the 2014 substantive reduction of disallowance to 30%. It treated the latter as effective from 1 April 2015, AY 2015-16, and refused to apply it to its AY 2005-06 dispute. Those are distinct issues and that later case's own assessment-year facts.

Do not convert Palam Gas into a present-day claim that every TDS default disallows 100% indefinitely. Nor should a claim for timely-deposit or payee-based relief be answered by the paid/payable holding alone. Identify the year, governing text, deduction/deposit dates and any properly evidenced statutory relief. Only the specified later passages are verified; no current-law or Income-tax Act, 2025 carryover is certified.

Source: [reported judgment / paragraphs 10; 15 / PDF pages 7, 8, 12, 13 / judicial text](#); [later treatment reported judgment / paragraphs 16-16.12 / PDF pages 36, 37, 38, 39, 40, 41, 42, 43, 44 / judicial text](#); [later treatment reported judgment / paragraphs 19-19.7 / PDF pages 49, 50, 51, 52, 53, 54, 55, 56 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS**Issue results**

1.

Issue: Expenses already paid to sub-contractors

Result: Section 40(a)(ia) applies where required TDS was not deducted; Rs. 20,97,689 disallowance sustained

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: 5

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14

Paragraphs: 15-19

Source role: judicial text

2.

Issue: Vector Shipping paid/payable interpretation

Result: Expressly overruled on the question; prior in-limine SLP dismissal did not affirm its reasoning

In whose favour: Revenue position accepted

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 14

Paragraphs: 17-18

Source role: judicial text

3.

Issue: 2010 timing relief and 2014 30% amendment

Result: Not independently determined in Palam Gas; bounded later check recorded separately

In whose favour: Not decided in this appeal

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 5; 14

Paragraphs: 4; 18-19

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

201; 260A

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 40(a)(ia)

Role: principal disallowance provision

Basis: Paid expenditure falls within the provision when the relevant TDS obligation is defaulted; year-end unpaid status is not a condition.

2.

Act: Income-tax Act, 1961

Section: 194C; 200

Role: withholding and remittance framework applied

Basis: Deduction when credit or payment occurs, whichever is earlier, and deposit of deducted tax inform section 40(a)(ia).

3.

Act: Income-tax Act, 1961

Section: 201

Role: additional-default-consequence context

Basis: The judgment reads its without-prejudice consequence with disallowance; it does not determine a separate quantified section 201 demand.

4.

Act: Income-tax Act, 1961

Section: 260A

Role: procedural context

Basis: High Court appeal route.

5.

Act: Income-tax Rules, 1962

Section: Rule 30(2)

Role: quoted remittance framework

Basis: Read with section 200 in the interpretive analysis; no independent current due-date advice is provided.

6.

Act: Income-tax Act, 1961

Section: 139(1)

Role: bounded later-treatment context only

Basis: Appears in the 2010 remittance-relief discussion verified in Shree Choudhary, not an independently decided Palam Gas issue.

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-2017-05-03-palam-gas-service

Later case id: sc-2020-07-29-transport

Relationship: followed on paid payable and reconsideration rejected

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 36; 37; 38; 39; 40; 41; 42; 43; 44

Paragraphs: 16-16.12

Source role: judicial text

Scope limit: Shree Choudhary confirms the paid/payable interpretation. Its separate 2010/2014 amendment analysis is an additional bounded qualification, not a proposition decided by Palam Gas.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 14 PDF pages; SHA-256

a34776f0ed61638b717c025a854f89c8c95536cff293688184b627677fe9524d. Original bytes preserved.

Judicial paragraphs 1-19 occupy physical pages 3-14 (SCR 838-849). Pages 1-2 contain the cover and editorial headnote; page 3 contains references, jurisdiction and appearances before the judicial opening. No neighbouring judgment is included.

Open cited source rendition

Printed SCR citation, title, judicial date and bench checked against the preserved reported rendition; catalogue INSC metadata is not independently certified as a neutral citation.

Paragraph 3 expressly identifies AY 2006-07. The later Shree Choudhary cross-check concerns a different assessee and AY 2005-06; neither that year nor the AY 2015-16 amendment commencement is an additional year in this appeal.

The reported cover refers to section 197, and the opening judicial paragraph prints 197C. The operative reasoning and reproduced provisions consistently concern section 194C. Neither 197 nor 197C is tagged as a provision decided. The 2010 timing and 2014 percentage amendments are discussed only in the separate later-case editorial check.

The unchanged reported rendition is used as primary source; no newly retrieved signed original is claimed.; The printed cover's section 197 and opening paragraph's 197C are inconsistent with the body, which repeatedly applies and reproduces section 194C. The actual issue is indexed to section 194C.; The judgment sometimes uses advance tax while discussing TDS. The note uses deduction at source because that is the operative Chapter XVII-B obligation.; Quoted section 194C/Rule 30 language is not presented as a verified historical or current rates-and-deadlines table.; The 2010 remittance and 2014 30% amendments are not decided by Palam Gas; their distinction comes from the specified later Shree Choudhary passages.

STATUTORY SCOPE

Section 40(a)(ia) paid/payable issue for AY 2006-07 and the Chapter XVII-B withholding framework. The section 194C and Rule 30 text reproduced in the judgment is not certified as an exhaustive assessment-year-specific or current compliance timetable.

Historical decision and specified bounded cross-case passages only. No comprehensive later-treatment or amendment audit and no automatic Income-tax Act, 2025 equivalence.

LATER TREATMENT

Source checked 2026-10-04. The actual Shree Choudhary (29 July 2020) reasoning in paragraphs 16-16.12 and 19-19.7 was reread to verify express following and the timing/percentage distinction. No comprehensive later judicial or statutory audit was undertaken.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 14](#)

SHA-256: a34776f0ed61638b717c025a854f89c8c95536cff293688184b627677fe9524d

[later treatment reported judgment - PDF pages: 57](#)

SHA-256: 3d1a947916fd7c677bef2bd56c2fa6b53fcea8081ff85710b4283d581825102

[Related note: Shree Choudhary Transport Company v. Income Tax Officer](#)

AI DISCLOSURE

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