

The Director, Prasara Bharati v. Commissioner of Income Tax, Thiruvananthapuram

Civil Appeal Nos. 3496–3497 of 2018

[2018] 3 SCR 287 | 2018-04-03

Whether the 15% remuneration under the accredited advertising-agency agreement was commission attracting section 194H and default consequences.

194H | 194H, Explanation(i) | 201(1) | 201(1A)

Two-judge bench | R.K. Agrawal, J. | Abhay Manohar Sapre, J.

Assessment years: 2002-03, 2003-04

Shared PDF: tax judgment is pages 1–14 only

Prasara Bharati's tax judgment ends on PDF page 14. Pages 15–37 contain the unrelated Suresh Kumar Kohli rent-control decision. The original PDF remains unchanged; all tax-note pinpoints stay within pages 1–14. The withholding result is agreement-specific and historical, with no current rate, threshold or 2025-Act mapping certificate.

01 FACTS OF THE CASE

Prasara Bharati's Doordarshan Kendra at Trivandrum telecast commercial advertisements. Accredited advertising agencies operated under an agreement providing 15% commission, controls on sharing that remuneration, payment deadlines, minimum annual business and a bank guarantee. The broadcaster argued that agencies bought airtime and resold it on a principal-to-principal basis; Revenue treated them as agents securing advertising business for it (paragraphs 5–11 and 20–22).

For AYs 2002-03 and 2003-04, the Assessing Officer invoked section 201 after finding that tax had not been deducted from the agency commission. The Commissioner (Appeals) agreed, the Tribunal reversed, and the Kerala High Court restored the officer and Commissioner orders. The broadcaster appealed to the Supreme Court (paragraphs 3 and 12–18).

Source: [reported judgment in shared pdf / paragraphs 3–23 / PDF pages 4, 5, 6, 7 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court applied the inclusive commission definition in section 194H to the actual relationship and agreement. The text included direct or indirect remuneration for services by a person acting on another's behalf. The Court found the agreement unambiguous and the transactions principal-agent rather than principal-to-principal (paragraphs 25–31).

Its reasons were cumulative: the relevant clauses described commission, the terms and business arrangement supported that description, the 15% was paid for obtaining advertisements and more business for Doordarshan, and the agreement itself contemplated deduction at source even where trade-discount terminology was used. The result was not based on the word commission alone or a universal rule for every advertising discount (paragraph 31).

The Court distinguished Jagran Prakashan on the facts described in that judgment. In the quoted Allahabad reasoning, no comparable agency agreement existed; by contrast, Doordarshan's agreement and conduct established the agency here. The Supreme Court accepted that factual distinction and reiterated that the nature of a payment depends on the individual arrangement (paragraphs 35–37).

Because section 194H applied and withholding had not occurred, section 201 consequences were properly invoked. The judgment did not decide an independent universal rule for every media contract or every later statutory relief from payer-default consequences (paragraphs 32–34).

Source: [reported judgment in shared pdf / paragraphs 25–37; preserve nested quotation attribution / PDF pages 8, 9, 10, 11, 12, 13, 14 / judicial text](#)

03 JUDICIAL DECISION

Both assessee appeals were dismissed and the Kerala High Court's conclusion was affirmed. Section 194H applied to the commission under the identified agreements and the invocation of section 201 remained effective. No fresh remand or separate costs direction appears in the operative paragraph 38.

Source: [reported judgment in shared pdf / paragraphs 38 / PDF pages 14 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Both appeals dismissed; High Court's restoration of the officer/Commissioner orders sustained

Final withholding/default determination on the identified historical agency arrangements

Fact-specific commission and agency ruling. Not every advertisement discount or airtime transaction is held to be agency; no current TDS rate, threshold, payment procedure or blanket default-relief rule is certified.

Source: [reported judgment in shared pdf / paragraphs 29–34 and 38 / PDF pages 10, 11, 14 / judicial text](#)

05 AKHB REVIEW POINT

Read the complete agreement and actual arrangement together. Accreditation, tariff and payment terms, obligations to obtain advertisements, the agency's role and the parties' treatment of remuneration mattered here. A discount label cannot neutralise an established agency, but a commission label should not replace the factual and contractual inquiry either. Keep the Court's express distinction of Jagran Prakashan with any summary of the holding.

Apply the relevant-year withholding provision and the facts of credit or payment before considering consequences. The statutory extract contains later rate/threshold features, so it is not a verified historical or current calculation table. The original source file also encloses a wholly separate rent-control case: cite only Prasar Bharati's pages 1–14 for this note.

Source: [reported judgment in shared pdf / paragraphs 20–38; editorial application / PDF pages 7, 8, 9, 10, 11, 12, 13, 14 / judicial text](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

260A

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Abhay Manohar Sapre, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 37 PDF pages; SHA-256

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Prasar Bharati occupies physical pages 1–14, printed SCR 287–300; judicial paragraphs 1–38 begin on page 4 and end on page 14. Pages 15–37, SCR 301–323, are the separate Suresh Kumar Kohli v Rakesh Jain rent-control judgment and are excluded from this tax note.

All Prasar pages 1–14 read; cover and ending visually checked. Adjacent case cover, boundary and ending inspected for separation, with no claim to a full merits review of that unrelated case.

[Open cited source rendition](#)

Paragraph 10 gives 1 June 2001–31 March 2002 and 1 April 2002–31 March 2003 as the respective payment periods; no liability for the earlier part of the first financial year is inferred.

Shared-source boundary: this 37-page asset contains Prasar Bharati only on pages 1–14. Pages 15–37 are Suresh Kumar Kohli v Rakesh Jain, CA 3996/2018, 19 April 2018, a separate rent-control judgment. They are not Prasar reasoning or a second tax ruling; Paragraph 12 has an isolated reference to section 194A. The reproduced provision, question and reasoning consistently concern section 194H; that operative identity controls this note.; Paragraph 25 quotes a 15,000-rupee threshold and other features not verified as the exact text for every earlier payment date. Paragraph 27's numerical summary is not a current compliance instruction; Paragraph 22 records counsel's claim that a wrong-format agreement was placed before the High Court. That submission is not restated as an independent Supreme Court finding of procedural misconduct; the Court analysed the agreement before it; Paragraphs 36–37 include quotations with their own High Court paragraph numbers 61–62 and a nested Kerala passage. Those numbers are not additional Supreme Court paragraphs.; Jagran Prakashan is distinguished, not declared overruled. No wider media-industry withholding rule is inferred.

STATUTORY SCOPE

Historical agreement and payment periods only; no automatic Income-tax Act, 2025 mapping or current TDS rate/threshold certificate.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment audit. Jagran Prakashan is read only as quoted and distinguished in this judgment; no independent complete review of that High Court decision is claimed.

IDENTIFIED SOURCE LINKS

[reported judgment in shared pdf - PDF pages: 37](#)

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