

Engineering Analysis Centre of Excellence Private Limited v. The Commissioner of Income Tax & Anr.

Civil Appeal Nos. 8733-8734 of 2018 and connected proceedings (full list below)

[2021] 2 SCR 321 | 2021-03-02

Whether payments in four identified software-supply categories for resale or end-use under the examined EULAs/distribution agreements were royalty for the use of copyright, taxable in India under the applicable DTAA, so that section 195 required withholding; and whether the domestic retrospective expansion of royalty could impose a historical deduction obligation or enlarge the treaty definition.

9(1)(vi) | 90(2) | 195 | 201

Three-judge bench | R. F. Nariman, J. | Hemant Gupta, J. | B. R. Gavai, J.

Assessment years: 2001-02, 2002-03

Four software categories; treaty and contractual limits

Treaty eligibility, actual copyright rights and the contractual facts remain central. No blanket exemption for every software or digital-service payment, no appeal-wise refund computation and no general elimination of business-profit/PE questions. The judgment's treaty outcome and pre-2012 historical-withholding analysis are kept distinct; no blanket post-2012 domestic software-payment exemption is asserted.

Identified reviews dismissed on 11 May 2026

The Supreme Court declined to reopen the 2021 judgment and dismissed these review petitions. The dated review history below explains the connected proceedings and the limits of this check; this is not an exhaustive current-law certificate.

[Official review order, paragraphs 1-4 \(PDF pages 2-3\)](#)

01 FACTS OF THE CASE

The common judgment disposed of assessee and Revenue appeals arising from conflicting Karnataka and Delhi High Court approaches and the Citrix Systems advance ruling. Paragraph 4 identified four transaction categories: (1) a resident Indian end-user directly buying software from a foreign non-resident supplier/manufacturer; (2) an Indian resident distributor/reseller buying from such a supplier and reselling to Indian end-users; (3) a foreign non-resident distributor buying from another foreign seller and reselling to Indian distributors/end-users; and (4) a foreign supplier selling software affixed to hardware as an integrated unit/equipment to Indian distributors/end-users. The final answer expressly covers all four categories, subject to the agreements and facts examined (paragraphs 2-4 and 169).

The lead EAC example concerned shrink-wrapped software imported directly from the USA for assessment years 2001-02 and 2002-03. The Assessing Officer treated the payment as royalty under section 9(1)(vi) and Article 12(3) of the India-USA DTAA, raising a failure-to-deduct demand of ₹1,03,54,784 and section 201(1A) interest of ₹15,76,567. The first appeal failed; the Tribunal allowed EAC's appeal. Karnataka's initial 2009 decision treated the absence of a section 195(2) application as sufficient for withholding. GE India Technology Centre (P) Ltd. v. CIT set that decision aside and remitted the royalty merits question. Karnataka's 15 October 2011 Samsung Electronics judgment again ruled for Revenue, this time reasoning that the software licences conveyed copyright rights (paragraphs 5-11).

The Court examined representative contractual provisions across all four categories: a Samsung end-user licence; the IBM Singapore/IBM India remarketer arrangement and an associated IBM-product EULA; Microsoft's standard end-user terms for the foreign-vendor category; and the JT Mobiles/Ericsson integrated mobile-system supply contract. The quoted arrangements reserved intellectual property to the owner, restricted copying, reverse engineering, sublicensing or alienation, and permitted installation/use and specified backup or internal copies. A distributor's ordinary resale margin and permission to market the product were distinguished from rights to reproduce and commercially exploit copyright. Paragraph 44 expressly presents illustrative clauses, including later-dated versions, rather than an appeal-by-appeal contract chronology.

Source: [reported judgment / paragraphs 2-11; category footnotes 3-6 / PDF pages 21, 22, 23, 24, 25, 26 / judgment](#); [reported judgment / paragraphs 44 \(all four categories\); 45-47 / PDF pages 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

1. Chargeability comes before section 195 withholding. Reading sections 4, 5, 9, 90 and 195 together, the Court held that the payer must deduct only when the non-resident's receipt is chargeable under the Act read with the applicable DTAA. The machinery provision does not operate independently of the charge. GE Technology remained controlling: section 195(2) concerns the appropriate taxable part of a composite payment; its absence does not make a wholly non-chargeable payment taxable. The Revenue's attempt to exclude payers from treaty protection because they are not the non-resident assesseees was rejected. The section 2(37A)(iii) rates rule and the absurdity of deduction at a rate above the treaty liability reinforced this conclusion. Differences in treaty entry-into-force wording reflected the contracting States' domestic systems and did not remove section 195 from treaty analysis. PILCOM was distinguished because section 194E, unlike section 195, did not use the same chargeability condition (paragraphs 24-32 and 53-61).

2. Copyright is a bundle of statutory exclusive rights, not the copy itself. Sections 14(a) and 14(b) of the Copyright Act identify reproduction, issuing copies, public performance/communication, translation, adaptation and related rights; section 14(b)(ii) additionally addresses sale or commercial rental of program copies. Sections 16, 18 and 30 distinguish legally recognized copyright and transfers/licences of interests in those rights. Purchasing a physical copy, or permission to operate software, does not itself acquire the owner's right to reproduce and exploit the work. Section 52(1)(aa) excludes installation/use-related copies or adaptations for the purpose of supply, and protective backups, from infringement. Section 52(1)(ad), concerning non-commercial personal use, is separate and does not negate section 52(1)(aa) merely because software is used in a business. Customization alone also does not establish transfer of copyright (paragraphs 33-39 and 117).

3. The actual grant of rights matters more than the word licence. The examined EULAs granted restricted use rather than an interest in copyright under section 30; the distribution arrangements permitted resale of copies and did not confer a reproduction right. The IBM distributor did not itself obtain a right to use the software. Samsung/Microsoft end-user terms allowed specified use and backup/internal operations while reserving ownership and restricting other dealings. Ericsson's integrated-system terms limited use to operation and maintenance, allowed archival copying, and permitted transfer with the system only on the specified conditions. The Court's book example contrasted buying copies for resale with acquiring authority to reproduce a work. *State Bank of India v. Collector of Customs* supported the reproduction/use distinction; *Sundaram Finance* supported reading a transaction as a whole; *Tata Consultancy Services* supported the characterization of marketed software copies as goods. Those authorities were used for their relevant reasoning, not to merge every direct-tax issue with indirect-tax treatment (paragraphs 44-52 and 117).

4. Treaty royalty is not enlarged by a broader domestic definition. Section 90(2), the defined-term rule discussed through explanation 4 to section 90, the treaties and CBDT Circular 333 required application of the more beneficial treaty. The Court used the

02 DISCUSSION BY THE HON'BLE COURT

India-Singapore DTAA illustratively: Article 12 defines royalty exhaustively by reference to the use of, or right to use, copyright; Article 7 separately deals with business profits and permanent establishments. Although domestic explanation 2 to section 9(1)(vi) is wider in some respects, explanation 2(v) still requires transfer of an interest in copyright rights. The words in respect of do not dispense with that requirement. The Court also addressed the misplaced comma after copyright in the statutory formulation and noted the un-enacted draft code only as drafting context (paragraphs 25-27, 40-43 and 62-73).

5. The 2012 amendment and historical compliance are distinct questions. The Court rejected the argument that explanation 4 merely qualified section 9(1)(vi)(b) without expanding explanation 2; it also rejected Revenue's description of the expansion as simply clarifying the position as it had always stood from 1976. The Finance Minister's statement, Circular 152 and the 2012 section 194J notification did not establish that historical proposition. For deductions and assessment years before 2012, the payer could not be required to anticipate an expansion not actually on the statute book. Applying the impossibility principles discussed in Arjun Panditrao Khotkar, NGC Networks and Western Coalfields, the Court held that section 195 could not demand the impossible historical deduction. This is not an invalidation of every retrospective tax amendment or a blanket post-2012 domestic-law exemption. Separately, a unilateral domestic amendment cannot rewrite the treaty definition (paragraphs 74-85, 110-115 and 156-158).

6. Earlier software decisions were expressly evaluated. Dassault Systems K.K. and Geoquest Systems distinguished copyright from restricted access/use of a product; their approach received express approval together with Delhi's Ericsson A.B., Nokia Networks OY, Infrasoftware and ZTE decisions. Citrix Systems (AAR) and Karnataka's Samsung Electronics reasoning wrongly treated a right to use the product as a copyright interest. Karnataka's Synopsis International Old Ltd. reasoning was also rejected: it overextended in respect of, disregarded the Copyright Act's statutory conception, treated mere storage as infringement despite section 52(1)(aa), imported the domestic definition into the more beneficial treaty, and wrongly treated purchase of the copyrighted article as transfer of the owner's exclusive rights. The approved authorities' discussion of business profits preserved the separate permanent-establishment inquiry. Ericsson and ZTE's reasoning on integrated hardware/software, separate invoicing and updates was fact-specific; it does not establish a universal rule against apportionment of mixed contracts. Infineon's reimbursement/cost-sharing argument and its reliance on A.P. Moller Maersk were recorded as submissions; the common disposition does not announce an independent exemption for every software reimbursement (paragraphs 20 and 86-118).

7. Resale is not automatically copyright exploitation. The Court traced section 14(b)(ii)'s 1994 and 1999 changes, particularly deletion, effective 15 January 2000, of language preserving control regardless of earlier sale or hire. It held that this recognized first-sale exhaustion for computer programs. The discussion used Warner Bros. as a contrast under the then-different statutory film regime; distinguished John Wiley's territorially restricted books; drew comparative assistance from the European UsedSoft judgment; and distinguished

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Vernor v. Autodesk because title to the software copies was retained there. John Wiley and Vernor were not overruled. The Court stressed that exhaustion depends on the governing legislation. In the present arrangements, the distributor merely passed on the same software product for its margin; it neither acquired a copyright interest nor a right to reproduce programs for onward commercial exploitation. The holding was tied to those resale transactions, not an unrestricted right to retain and multiply copies, or a universal rule governing all rentals, imports and licences (paragraphs 119-144).

8. International materials assisted interpretation but did not amend the treaties. The Court followed liberal, purposive treaty interpretation, discussing Azadi Bachao Andolan, Formula One, E-Funds, Thiel, Ram Jethmalani and New Skies Satellite. Because the relevant royalty provisions followed the OECD model, the OECD Commentary was a persuasive interpretive guide distinguishing copyright exploitation from end-use, distribution and installation copies. Its quoted discussion also distinguished know-how, alienation and mixed contracts; those hypothetical categories were not each independently adjudicated. New Skies Satellite was specifically approved on the rule against unilateral treaty alteration. India's expressed positions on the Commentary had not been implemented by bilateral amendments to the royalty definitions at issue; later protocols retaining those definitions illustrated the point. The 2003 and 2016 e-commerce reports were recommendatory; they did not alter treaty law. Spanish judgments based on Spanish tax law were not relevant, and G.M. Exports' international-law propositions did not displace the express section 90(2) rule. Finally, Circular 10/2002's certificate separately identified royalty remittances and software-supply/business-profit remittances, with the latter requiring a PE/attribution inquiry. No independent holding on cloud services, equalisation levy or all digital transactions was made (paragraphs 145-167).

Source: [reported judgment / paragraphs 24-32 / PDF pages 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 / judgment](#); [reported judgment / paragraphs 33-43 / PDF pages 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 / judgment](#); [reported judgment / paragraphs 44-52 / PDF pages 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73 / judgment](#); [reported judgment / paragraphs 53-61 / PDF pages 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84 / judgment](#); [reported judgment / paragraphs 62-79 / PDF pages 84, 85, 86, 87, 88, 89, 90, 91, 92, 93 / judgment](#); [reported judgment / paragraphs 80-85 / PDF pages 93, 94, 95, 96, 97, 98, 99, 100, 101 / judgment](#); [reported judgment / paragraphs 86-118 / PDF pages 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133 / judgment](#); [reported judgment / paragraphs 119-144 / PDF pages 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152 / judgment](#); [reported judgment / paragraphs 145-159 / PDF pages 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167 / judgment](#); [reported judgment / paragraphs 160-167 / PDF pages 167, 168, 169, 170, 171 / judgment](#)

03 JUDICIAL DECISION

Under the royalty definitions in the applicable DTAAs, the payments in the examined EULA/distribution arrangements were consideration for resale/use of software copies and were not royalties for use of, or a right to use, copyright. Those arrangements did not create the relevant copyright interest in distributors or end-users. Section 9(1)(vi) and explanations 2 and 4, being less beneficial in the circumstances, did not displace the treaty result. The receipts described in the question did not give rise to taxable income in India on these facts, and the payers consequently had no section 195 obligation. The Court expressly applied this answer to all four categories in paragraph 4 (paragraphs 168–169).

The separate historical-withholding reasoning in paragraphs 80–85 concerns the pre-2012 deductions and assessment years before the Court. The decision does not erase the distinction between royalty and business profits, or the possible relevance of a permanent establishment; nor does it determine all software, cloud, support, technical-service or copyright-exploitation arrangements.

Source: [reported judgment / paragraphs 168–169 / PDF pages 171, 172 / judgment](#); [official signed judgment / paragraphs 168–169 / PDF pages 225, 226 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee and payers on the examined software-royalty and section 195 questions

Leave was granted. The appeals from the impugned Karnataka High Court judgments were allowed and those judgments were set aside. The Citrix Systems AAR ruling was set aside. The appeals from the impugned Delhi High Court judgments were dismissed (paragraphs 1 and 170). The final order does not prescribe an appeal-by-appeal quantified refund, a fresh remand or a separate costs direction; none is added to this note.

Common merits decision covering the four categories of software transactions identified by the Court

Treaty eligibility, actual copyright rights and the contractual facts remain central. No blanket exemption for every software or digital-service payment, no appeal-wise refund computation and no general elimination of business-profit/PE questions.

Source: [reported judgment / paragraphs 1 and 170 / PDF pages 21, 172 / judgment](#); [official signed judgment / paragraphs 170 and signatures/date / PDF pages 226 / judgment](#)

05 AKHB REVIEW POINT

Start with the transaction and the rights actually granted: identify the supplier/distributor/end-user chain, the relevant payment, the software and hardware components, and whether the recipient acquires an interest in reproduction, distribution or other statutory copyright rights beyond running or ordinarily reselling a copy. Keep the EULA and distribution terms together; neither a licence label nor a goods label alone completes the tax analysis. Restrictions, lawful installation/backup permissions and the difference between resale of a copy and reproduction for commercial exploitation were decisive here.

Then verify the applicable treaty, eligibility, exact royalty wording, relevant period and any business-profit/PE or separate service issue. Keep two distinct propositions separate: more beneficial treaty protection against unilateral domestic expansion, and the impossibility of anticipating the 2012 expansion for historical withholding. Do not turn either into a universal exemption for software, SaaS/cloud, hosting, technical services, sublicensing or reproduction rights. Paragraph 44's illustrative later-dated contract extracts should not be represented as proof of the executed terms in every older assessment year. This editorial application guide requires verification against the original judgment, actual contracts and later law; no automatic Income-tax Act, 2025 mapping or comprehensive subsequent-treatment conclusion is supplied.

Source: [reported judgment / paragraphs 4; 38-39; 44-47; 72-85; 117-118; 140-144; 156-159; 167-169 / PDF pages 22, 23, 52, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 132, 133, 150, 151, 152, 165, 166, 167, 171, 172 / judgment](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 8733-8734 of 2018 / Civil Appeal Nos. 8735-8736 of 2018 / Civil Appeal Nos. 8737-8941 of 2018 / Civil Appeal Nos. 8942-8947 of 2018 / Civil Appeal Nos. 8950-8953 of 2018 / Civil Appeal Nos. 8948-8949 of 2018 / Civil Appeal No. 4419 of 2012 / Civil Appeal No. 4420 of 2012 / Civil Appeal No. 10114 of 2013 / Civil Appeal No. 10097 of 2013 / Civil Appeal Nos. 10112-10113 of 2013 / Civil Appeal No. 10106 of 2013 / Civil Appeal Nos. 8954-8955 of 2018 / Civil Appeal Nos. 10115-10117 of 2013 / Civil Appeal No. 8956 of 2018 / Civil Appeal No. 8957 of 2018 / Civil Appeal No. 8990 of 2018 / Civil Appeal No. 10103 of 2013 / Civil Appeal No. 10104 of 2013 / Civil Appeal No. 8960 of 2018 / Civil Appeal No. 8966 of 2018 / Civil Appeal No. 8958 of 2018 / Civil Appeal No. 8959 of 2018 / Civil Appeal No. 8962 of 2018 / Civil Appeal No. 8961 of 2018 / Civil Appeal No. 8963 of 2018 / Civil Appeal No. 8964 of 2018 / Civil Appeal No. 8965 of 2018 / Civil Appeal No. 8969 of 2018 / Civil Appeal No. 8967 of 2018 / Civil Appeal No. 8968 of 2018 / Civil Appeal No. 8972 of 2018 / Civil Appeal No. 8971 of 2018 / Civil Appeal No. 8970 of 2018 / Civil Appeal No. 4629 of 2014 / Civil Appeal No. 8973 of 2018 / Civil Appeal No. 4631 of 2014 / Civil Appeal No. 4630 of 2014 / Civil Appeal Nos. 8974-8975 of 2018 / Civil Appeal Nos. 6386-6387 of 2016 / Civil Appeal No. 10105 of 2013 / Civil Appeal No. 7852 of 2012 / Civil Appeal Nos. 1416-1418 of 2013 / Civil Appeal No. 1403 of 2013 / Civil Appeal No. 1405 of 2013 / Civil Appeal No. 1410 of 2013 / Civil Appeal No. 1421 of 2013 / Civil Appeal No. 1409 of 2013 / Civil Appeal No. 1415 of 2013 / Civil Appeal No. 1414 of 2013 / Civil Appeal No. 1412 of 2013 / Civil Appeal No. 1413 of 2013 / Civil Appeal No. 1419 of 2013 / Civil Appeal No. 1411 of 2013 / Civil Appeal No. 1420 of 2013 / Civil Appeal No. 1404 of 2013 / Civil Appeal No. 1406 of 2013 / Civil Appeal No. 1408 of 2013 / Civil Appeal No. 1407 of 2013 / Civil Appeal No. 2304 of 2013 / Civil Appeal No. 2305 of 2013 / Civil Appeal No. 2306 of 2013 / Civil Appeal Nos. 10098-10102 of 2013 / Civil Appeal Nos. 2307-2308 of 2013 / Civil Appeal Nos. 4666-4667 of 2013 / Civil Appeal No. 6764 of 2013 / Civil Appeal No. 4634 of 2014 / Civil Appeal No. 8976 of 2018 / Civil Appeal Nos. 8977-8988 of 2018 / Civil Appeal No. 781 of 2021 (arising from SLP(C) No. 37580 of 2016) / Civil Appeal No. 782 of 2021 (arising from SLP(C) No. 28867 of 2016) / Civil Appeal No. 783 of 2021 (arising from SLP(C) No. 28868 of 2016) / Civil Appeal No. 10673 of 2016 / Civil Appeal No. 784 of 2021 (arising from SLP(C) No. 29571 of 2016) / Civil Appeal No. 10674 of 2016 / Civil Appeal No. 785 of 2021 (arising from SLP(C) No. 36782 of 2016) / Civil Appeal No. 3402 of 2017 / Civil Appeal No. 10758 of 2017 / Civil Appeal No. 9486 of 2017 / Civil Appeal No. 8711 of 2018 / Civil Appeal No. 8722 of 2018 / Civil Appeal No. 8724 of 2018 / Civil Appeal No. 8725 of 2018 / Civil Appeal No. 9551 of 2018 / Civil Appeal No. 786 of 2021 (arising from SLP(C) No. 450 of 2019) / Civil Appeal No. 2006 of 2019 / Civil Appeal No. 790 of 2021 (arising from SLP(C) No. 6736 of 2020)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(7); 2(37A)(iii); 4; 5(2); 194E; 194J

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 9(1)(vi), explanations 2(v), 3 and 4

Role: principal royalty provisions construed

Basis: Copyright-right transfer under explanation 2; explanation 4 introduced by Finance Act 2012 with stated retrospective effect from 1 June 1976; distinction from treaty royalty and pre-2012 withholding compliance. Explanations 5 and 6 arise as related amendment context, not independent satellite/equipment-payment holdings.

2.

Act: Income-tax Act, 1961

Section: 90(2), explanation 4

Role: treaty-benefit and defined-term rules

Basis: Applicable DTAA prevails where more beneficial; a treaty-defined term is not unilaterally expanded by the domestic definition. The judgment quotes explanation 4 with its Finance Act 2017 insertion, effective 1 April 2018, as reflecting the interpretive position.

3.

Act: Income-tax Act, 1961

Section: 195(1), 195(2); 2(37A)(iii); 4; 5(2)

Role: chargeability-linked withholding machinery

Basis: The payer considers treaty chargeability and rates; section 195(2) addresses the chargeable proportion of composite payments, not a universal prerequisite to every non-taxable remittance.

4.

Act: Income-tax Act, 1961

Section: 201(1), 201(1A)

Role: default and interest consequences in lead proceedings

Basis: EAC faced a tax-deduction demand and interest; default consequences presuppose a deductible sum.

5.

Act: Income-tax Act, 1961

Section: 194E

Role: distinguished withholding provision

Basis: PILCOM concerned non-resident sports payments under a differently worded withholding provision; its ruling did not control section 195.

6.

Act: Income-tax Act, 1961

Section: 194J; 40(a)(i); 40(a)(ia); 17(2)

Role: notification, submission and precedent context

Basis: Section 194J occurs in the 2012 notification and NGC Networks analogy; section 40(a)(i) in GE Technology's compliance discussion; section 40(a)(ia) in counsel's hardship submission; section 17(2) in the Western Coalfields analogy. No separate universal disallowance, perquisite or section 194J rule is decided here.

7.

Act: Copyright Act, 1957

Section: 2(ffc); 2(m); 2(o); 14(a), 14(b); 16; 18; 19; 30; 30A; 51; 52(1)(aa), 52(1)(ad)

Role: copyright rights, licensing, permitted copying and exhaustion

Basis: Distinguishes copyright ownership/exploitation from ownership or restricted use/resale of a copy; section 14(b)(ii) amendment effective 15 January 2000 is material to exhaustion.

8.

Act: Applicable Double Taxation Avoidance Agreements

Section: Royalty articles, business-profits articles and general definitions; India-Singapore Articles 3(2), 7 and 12 used as illustration

Role: controlling treaty characterization

Basis: Paragraph 40 lists 18 treaty counterparties and paragraph 41 describes materially similar royalty/business-profits provisions. Article numbers and terms must still be checked in the applicable bilateral treaty; entry-into-force articles are also examined in paragraphs 59-61.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R. F. Nariman, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 226 PDF pages; SHA-256 33194a404916d6d6eceb9166d59ed665588f967f01444d75dbc3537c60e5820f. Original bytes preserved. Cover/connected-case list physical pages 1-5; judgment begins on page 5 and ends with paragraph 170 and three judges' signatures/date on page 226.

Official cover/connected appeals pages 1-5, judgment start, and final paragraphs/signatures/date pages 225-226 checked against the fully read bounded reported judicial text. Full independent rereading of every page of the official rendition is not claimed.

[Open cited source rendition](#)

The 172-page reported source contains 20 pages of editorial/jurisdiction material before the judicial text begins on physical page 21; holdings are grounded in paragraphs 1-170, not headnote paraphrases.

Physical-page numbering is source-specific: the official original has 226 pages; the reported rendition has 172 pages and printed SCR pages 321-492.

All 87 cover appeal entries/ranges were retained, including seven originating SLP references; no unverified count of individual appeals is substituted.

The specified assessment years belong to the EAC example; a complete assessment-year allocation across all connected appeals is not printed.

Paragraph 44 quotes illustrative later-dated contract versions; the note does not backdate those versions to the older assessment years.

The Citrix AAR ruling is identified from paragraphs 94 and 170 notwithstanding its inclusion in the introductory footnote list.

The reported headnote's paragraph-97 label is not used to assign Samsung treatment: the body criticizes Citrix in paragraph 97 and Samsung in paragraph 102.

The judgment's treaty outcome and pre-2012 historical-withholding analysis are kept distinct; no blanket post-2012 domestic software-payment exemption is asserted.

Source bibliographic anomalies are not silently corrected: paragraph 103 prints the Synopsis date as 03.08.2020; paragraph 121 identifies a 1999 treatise edition but includes later-looking material; the surrounding UsedSoft discussion labels Directive 2001/29 while its extracts identify Directive 2009/24. The note does not rely on those unverified dates/edition/directive labels.

Treaty article numbers are treaty-specific: the Ericsson extract refers to Article 13(3), although the concluding discussion uses Article 12 illustratively. The note does not assign Article 12 universally.

No comprehensive subsequent-treatment, current-law or automatic 2025 Act mapping assertion.

Reported citation verified from the reported cover. The catalogue string 2021INSC137 has not been independently verified as a neutral citation and is not adopted.

Paragraph 5 expressly identifies 2001-2002 and 2002-2003 for the illustrative lead EAC appeals. Paragraphs 17 and 80 describe the deductions and assessment years in the batch as prior to 2012; the judgment does not enumerate every appeal's assessment years. Years occurring only in statutory memoranda or cited precedents are not assigned to this batch.

All 87 civil-appeal number entries/ranges are transcribed from the official cover and connected-case list on physical pages 1-5; seven entries retain their printed originating SLP(C) references. They form one common judgment. Category allocations are in paragraph 4 and footnotes 3-6. The reported jurisdiction block also identifies Karnataka High Court Income Tax Appeal Nos. 1258 and 1270 of 2006 as the lead appeals below.

STATUTORY SCOPE

Income-tax Act, 1961, Copyright Act, 1957 and the treaty provisions as examined in the 2 March 2021 judgment, including historical pre-2012 withholding and the 1999 Copyright Act amendment effective 15 January 2000. Quoted later statutory text is not assumed to have applied in every assessment year.

No automatic 2025 Act mapping; no comprehensive subsequent judicial, statutory, protocol or digital-tax audit.

REVIEW HISTORY CHECKED ON 6 OCTOBER 2026

Judgment source checked 2026-10-04. On 11 May 2026, the Supreme Court dismissed Review Petition (C) Nos. 1422-1497/2021 and the connected reviews arising from Diary Nos. 22013/2022 and 1871/2024. Although listed for open-court hearing, the reviews challenged the same 2 March 2021 judgment already considered in the earlier review proceedings. The Court declined to reopen the merits and ordered that "these review petitions are also dismissed."

The order records that Review Petition (C) Diary No. 35475/2023 had been dismissed on 23 April 2024 on delay and merits. That earlier disposal is verified here through the 2026 order; the original 2024 order was not independently inspected for this update.

These identified reviews did not alter the 2021 judgment. Treaty eligibility, contractual rights and the applicable statutory version still require examination. This update is not an exhaustive subsequent-treatment check.

6 October 2026 (UTC): Added the identified 11 May 2026 review-dismissal history; the original merits analysis remains unchanged.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 226](#)

SHA-256: 33194a404916d6d6ecec9166d59ed665588f967f01444d75dbc3537c60e5820f

[reported judgment - PDF pages: 172](#)

SHA-256: fb7aafbde3a39a2f45bbf712554f2b98febd5b82923f0fc5451ca28538815511

[Supreme Court review order dated 11 May 2026 — paragraphs 1-4, PDF pages 2-3](#)

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