

Director of Income Tax, New Delhi v. M/s. Mitsubishi Corporation

Civil Appeal No. 1262 of 2016 and connected proceedings (full list below)

[2021] 7 S.C.R. 750 | 2021-09-17

For periods before financial year 2012-13, could a payee reduce tax deductible or collectible at source when computing advance tax under section 209(1)(d), even though the payer had not deducted it, and consequently avoid interest under section 234B on that component?

209(1)(d) | 234B

Two-judge bench | L. Nageswara Rao, J. | Aniruddha Bose, J.

Assessment years: 1998-99, 1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09

01 FACTS OF THE CASE

Mitsubishi was a Japanese non-resident company conducting trading activities through liaison offices in India. A notice under section 143(2) was issued on 12 October 2004, and an assessment order dated 24 March 2006 attributed part of its income to Indian operations for AYs 1998-99 to 2004-05. The appeal described in this judgment was confined to section 234B interest, rather than the underlying attribution or treaty taxability of that income (paragraphs 1-3; SCR PDF pages 6-7).

After an initial maintainability rejection and ITAT remand, the Commissioner (Appeals) held that failure by the payer to deduct tax did not remove the assessee's advance-tax obligation. The ITAT reversed that decision on 23 June 2009. It found that tax was deductible from the receipts in each of the seven years and that no advance-tax liability after the appropriate deduction had been demonstrated. Delhi High Court upheld the ITAT on 30 August 2010. The Revenue appealed to the Supreme Court (paragraphs 2-7; PDF pages 6-9).

A separately identified group concerned Alcatel Lucent USA, Inc. for AYs 2004-05 to 2007-08 and Alcatel Lucent World Services Inc. for AYs 2004-05 to 2008-09. There, ITAT had granted relief from section 234B interest, but Delhi High Court ruled for the Revenue on 7 November 2013, followed by a decision on 8 September 2014. The High Court relied on the assessee's initial denial of taxability and considered it implausible that the Indian payers had failed to deduct without being prompted by them. Those assessee's brought the connected appeals addressed in paragraphs 23-25 (PDF page 18).

Source: [scr reported judgment / paragraphs 1-7 / PDF pages 6, 7, 8, 9 / judgment](#); [scr reported judgment / paragraphs 23-24 / PDF pages 18 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Revenue argued that sections 190 and 191 imposed an independent obligation on the payee, that section 234B was compensatory and self-contained, and that its definition of assessed tax referred to tax actually deducted or collected. On that view, tax paid to the assessee without deduction could not reduce advance tax. The assessee answered that liability and default in paying advance tax were conditions precedent to section 234B and had to be determined using section 209 (paragraphs 8-10 and 13; SCR PDF pages 9-10 and 13-14). These competing submissions are distinct from the Court's findings.

The Hon'ble Court read the provisions together within Chapter XVII. Sections 190, 195, 200 and 201 explain the collection structure and consequences of a payer's default. Under the historical section 209(1)(a) and (d), the assessee estimated current income and computed tax at the relevant rates, then reduced the tax deductible or collectible at source. Section 234B applied only if the assessee was liable to advance tax and failed to pay it, or paid less than ninety per cent of assessed tax. The definition of assessed tax did not eliminate those prior conditions (paragraphs 11-12 and 20; PDF pages 10-13 and 17).

The Finance Act, 2012 inserted a proviso to section 209(1)(d). It prevents the reduction where income is paid or credited without deduction, or received or debited without collection, in the circumstances specified. The Court characterised this as an exception that changed the position from 1 April 2012 for advance tax payable in FY 2012-13 and later years. Every appeal before it concerned a period before AY 2013-14 (paragraphs 14-16; PDF pages 14-15).

The memorandum explaining the 2012 amendment stated that courts had allowed assessees to reduce the deductible or collectible component even where it had not been withheld. Drawing on *Cape Brandy Syndicate*, *State of Bihar v. S.K. Roy* and *Gem Granites*, the Court treated subsequent legislation as an interpretive aid where the earlier wording was ambiguous. Accepting the Revenue's proposed meaning for the earlier provision would deprive the 2012 exception of work to do. Accordingly, before FY 2012-13 the reduction was available notwithstanding receipt of the full amount without deduction (paragraphs 15 and 17-19; PDF pages 14-17). The discussion of section 80HHC in *Gem Granites* supplies an interpretation principle, not a new export-deduction holding here.

The Court rejected an isolated reading of section 234B. Once the historical section 209 computation meant that there was no advance-tax default on the relevant deductible component, section 234B interest could not be imposed on that basis. It agreed that the Revenue was not without remedies against the payer responsible for deducting tax. It expressly acknowledged the changed position under the 2012 proviso, declined to decide the remaining Revenue contentions, and did not examine each connected appellant's facts separately (paragraphs 20-21; PDF page 17).

For the Alcatel group, the Court held that the same statutory ruling covered the section 234B question notwithstanding the different course taken by Delhi High Court. This is application

02 DISCUSSION BY THE HON'BLE COURT

of the historical statutory construction, not a separate finding about what each payer or payee actually represented to the other (paragraphs 23-25; PDF page 18).

Source: [scr reported judgment / paragraphs 8-13 / PDF pages 9, 10, 11, 12, 13, 14 / judgment](#); [scr reported judgment / paragraphs 14-19 / PDF pages 14, 15, 16, 17 / judgment](#); [scr reported judgment / paragraphs 20-25 / PDF pages 17, 18 / judgment](#)

03 JUDICIAL DECISION

The pre-FY 2012-13 version of section 209(1)(d) permitted reduction of tax deductible or collectible at source in computing advance tax even if the payer had not deducted it. Section 234B could not be applied without first establishing advance-tax liability and default under that computation. The Revenue appeals were dismissed, preserving the relief granted in the Mitsubishi line of appeals (paragraphs 19-22; SCR PDF pages 16-17).

The connected Alcatel assessee appeals separately listed before paragraph 23 were allowed because their section 234B issue was covered by the same ruling (paragraphs 23-25; PDF page 18).

Source: [scr reported judgment / paragraphs 19-22 / PDF pages 16, 17 / judgment](#); [scr reported judgment / paragraphs 23-25 / PDF pages 18 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the historical section 234B interest question

Revenue appeals dismissed under paragraph 22; separately listed Alcatel assessee appeals allowed under paragraph 25

Historical advance-tax computation and associated interest question decided; underlying assessed income-tax liability and treaty attribution not redetermined

Relief concerns section 234B under the pre-FY 2012-13 section 209 computation. The Court did not adjudicate every payer-default remedy or grant equivalent separate relief under sections 234A or 234C.

Source: [scr reported judgment / paragraphs 20-25 / PDF pages 17, 18 / judgment](#)

05 AKHB REVIEW POINT

The first professional check is the relevant financial year and the exact statutory text. A historical non-deduction case should not be treated as an automatic precedent for FY 2012-13 onward. Next establish that tax was legally deductible or collectible from the income included in the advance-tax estimate, and quantify any liability left after that reduction. Keep the question of section 234B interest separate from the underlying income-tax demand and the payer's section 201 exposure.

For a connected-appeal digest or litigation citation, record which side appealed: the same common judgment dismisses the Revenue group but allows the Alcatel group. Do not use the short editorial headnote as a substitute for the judicial facts. Its notice date conflicts with paragraph 2; this note uses the judicial date, 12 October 2004. Treaty attribution appears only as assessment background, not as a fresh Supreme Court interpretation of the India-Japan treaty. These are editorial application safeguards, not additional holdings or a current-law certificate.

Source: [scr reported judgment / paragraphs 2; 6; 16; 19-25 / PDF pages 6, 8, 15, 16, 17, 18 / editorial synthesis](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 1262 of 2016 / Civil Appeal No. 1256 of 2016 / Civil Appeal No. 1268 of 2016 / Civil Appeal No. 1271 of 2016 / Civil Appeal No. 1272 of 2016 / Civil Appeal No. 5734 of 2021 / Civil Appeal No. 5735 of 2021 / Civil Appeal No. 4766 of 2021 / Civil Appeal No. 5737 of 2021 / Civil Appeal No. 3884 of 2014 / Civil Appeal No. 1301 of 2016 / Civil Appeal Nos. 1338-1341 of 2016 / Civil Appeal No. 1323 of 2016 / Civil Appeal No. 1324 of 2016 / Civil Appeal No. 1325 of 2016 / Civil Appeal Nos. 1326-1331 of 2016 / Civil Appeal No. 1322 of 2016 / Civil Appeal No. 1342 of 2016 / Civil Appeal Nos. 1295-1299 of 2016 / Civil Appeal Nos. 1303-1307 of 2016 / Civil Appeal Nos. 1311-1312 of 2016 / Civil Appeal No. 1314 of 2016 / Civil Appeal No. 1310 of 2016

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

143(2); 190; 191; 195; 200; 201; 208; 210; 234A; 234C; 260A

PROVISION-SPECIFIC SCOPE

1.

Section: 209(1)(a), (d)

Role: operative computation provisions

Basis: Read in the pre-Finance Act, 2012 form; paragraph 11 reproduces the text and paragraphs 12, 14-20 construe it.

Act: Income-tax Act, 1961

2.

Section: 234B, including Explanation 1

Role: operative interest provision

Basis: The existence of advance-tax liability and default must precede use of the assessed-tax measure; paragraph 20 rejects reading this section alone.

Act: Income-tax Act, 1961

3.

Section: 190; 191; 195; 200; 201; 208; 210

Role: collection and advance tax context

Basis: Chapter XVII structure, parties' submissions and remedies against a payer; not a fresh general ruling on all possible recovery proceedings.

Act: Income-tax Act, 1961

4.

Section: 234A; 234C

Role: assessment background only

Basis: Mentioned in the Alcatel assessments in paragraph 23; the question decided is section 234B interest.

Act: Income-tax Act, 1961

5.

Section: 80HHC

Role: quoted precedent only

Basis: Gem Granites is discussed for use of subsequent legislation as an interpretive aid, not as an export-deduction dispute in this case.

Act: Income-tax Act, 1961

6.

Section: 90; 90A; 91; 115JAA; 143(1); 147; 153A

Role: reproduced statutory context only

Basis: Appear in the historical section 234B extract, not distinct relief or independently decided issues.

Act: Income-tax Act, 1961

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

L. Nageswara Rao, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 24 PDF pages; SHA-256 e282dc646907f65acf200cc0efb80b3aae9ca894b61ab1294d581f46f2bc4f1c. Original bytes preserved. Independent cover/end/signature verification and whole-text machine concordance with the fully read SCR opinion, with residual differences inspected. Not represented as a second independent page-by-page reading or cryptographic signature validation.

[Open cited source rendition](#)

Judicial paragraph 2 says the notice was issued on 12 October 2004; the editorial headnote incorrectly gives 12 October 2006. The official original corroborates 2004. Original PDFs are unchanged.

The 2012 change is keyed to FY 2012-13, corresponding to AY 2013-14. Financial year and assessment year are not interchangeable.

Revenue dismissals in paragraph 22 and assessee allowances in paragraph 25 are separately reported. The last-page disposition is not an unrelated neighbouring judgment.

The reference to treaty Articles 4, 5 and 6 is how paragraph 2 describes the assessment; the treaty text was not independently construed or verified in this review. No treaty rule is inferred.

Quoted sections and cited prior judgments are analysed as used by this Court; there is no independent citator validation of those authorities.

The official original has 24 pages and the SCR rendition 18 pages. Merits pinpoints use physical pages of the expressly linked SCR source; official identity pinpoints use the official source's own pagination.

Whole-text concordance showed footnote relocation, superscript spacing and presentation differences, not a conflicting substantive disposition. Digital signatures were not cryptographically validated.

SCR citation verified on the cover. The frozen metadata also contains 2021INSC495, but this identifier is not printed on the reviewed cover and is not promoted here as an independently verified neutral citation.

Mitsubishi facts concern AYs 1998-99 through 2004-05; AY 2005-06 appears as an earlier ITAT comparator. Paragraph 23 identifies AYs 2004-05 through 2007-08 for Alcatel Lucent USA and AYs 2004-05 through 2008-09 for Alcatel Lucent World Services. The Court states that every appeal concerns a period before AY 2013-14; it does not recount every other appellant's facts.

The lead and first connected group are on the official cover and SCR pages 754-755. A separate heading preceding paragraph 23 identifies the connected Alcatel assessee appeals; their allowance must not be confused with the dismissal of the Revenue group.

STATUTORY SCOPE

Sections 209 and 234B as reproduced and construed before the Finance Act, 2012; the proviso effective 1 April 2012 for FY 2012-13 onward is examined as the historical dividing line. Other historical amendments and later legislation have not been independently audited.

No automatic mapping to the Income-tax Act, 2025, no comprehensive later-treatment search and no current-law certification.

LATER TREATMENT

Source checked 2026-10-04. Subsequent review proceedings, clarifications, stays, implementation, amendments and later judicial treatment have not been comprehensively checked. This is not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

[official judgment original - PDF pages: 24](#)

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[scr reported judgment - PDF pages: 18](#)

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