

Singapore Airlines Ltd. v. C.I.T., Delhi

Civil Appeal Nos. 6964-6965 of 2015 / Civil Appeal Nos. 6966-6967 of 2015 / Civil Appeal No. 6968 of 2015

[2022] 9 S.C.R. 1 | 2022-11-14

Whether the margin retained by travel agents over the airlines' Net Fare, described as Supplementary Commission, attracts section 194H despite reaching agents through customers; and how recipient payment of tax, section 201(1A) interest and sections 271C/273B penalty affect the appellant airlines.

194H | 201(1) | 201(1A) | 271C | 273B

Two-judge bench | Surya Kant, J. | M. M. Sundresh, J.

Assessment years: 2001-02

01 FACTS OF THE CASE

Singapore Airlines Ltd., KLM Royal Dutch Airlines and British Airways PLC brought connected appeals against the Delhi High Court's common judgment of 13 April 2009. The Supreme Court repeatedly describes the relevant assessment year as 2001-02. Under the industry arrangement examined, IATA set a Base Fare ceiling; the airlines set a lower Net Fare; and travel agents sold tickets under Passenger Sales Agency Agreements (PSAs) signed by IATA on the carriers' behalf. The agents received Standard Commission and could retain the difference between the Actual Fare charged to customers and the airlines' Net Fare as Supplementary Commission. The Court's illustrative 7% standard commission is distinct from the disputed margin; its footnote records 9% before 1 January 2002. The IATA Billing and Settlement Plan (BSP) recorded ticket-sale data, commissions and net settlements.

Following surveys, the Revenue alleged non-deduction of TDS on Supplementary Commission, treated the airlines as assessees in default, raised distinct airline-specific demands and directed initiation of section 271C proceedings. The historical figures are separately recorded above and are not the final remand liability. CIT(A) upheld the demands on merits but directed exclusion of transactions before 1 June 2001. The Tribunal allowed Singapore Airlines' appeals and followed that reasoning for the other airlines. It viewed the margin as customer-paid income rather than airline commission and questioned ascertainability and assumed quantification. The High Court reversed the Tribunal and restored the default and interest conclusions.

The airlines submitted that the agent-customer leg was separate from their admitted agency relationship, that the carriers neither paid nor knew the margin, and that recipient tax payment made recovery revenue-neutral. These were contentions, not findings. The Revenue answered that the whole sale was performed on the airline's behalf, title did not pass to agents, Explanation (i) covered indirect payments and BSP data made deduction practicable. Both sides accepted before the Court that agents had included the relevant amounts in income and paid tax, but documentary proof and actual payment dates were not supplied.

Source: [reported rendition / paragraphs 2-16 / PDF pages 9, 10, 11, 12, 13, 14, 15, 16 / judgment](#); [reported rendition / paragraphs 17 / PDF pages 16, 17, 18 / assessee submission](#); [reported rendition / paragraphs 18 / PDF pages 18, 19 / Revenue submission](#); [reported rendition / paragraphs 52-53; 57-58 / PDF pages 35, 36, 38 / judgment](#); [official signed judgment / paragraphs 2-16 / PDF pages 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 / judgment](#); [official signed judgment / paragraphs 52-53; 57-58 / PDF pages 42, 43, 45, 46 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read section 194H Explanation (i) with section 182 of the Contract Act and the actual PSA, rather than treating the description of the margin as decisive. Its agency analysis considered who owned the tickets, on whose behalf they were sold, and who bore responsibility to the passenger. PSA clauses 3, 6.1, 9 and 15 showed that title remained with the carrier until issue/delivery, the agent acted under authority on the carrier's behalf, the carrier remunerated the agent, and the carrier bore the relevant transport-service responsibility and indemnity. The proposed independent second leg was therefore rejected: the customer sale was part of the same agency undertaking (paragraphs 19-32).

Explanation (i) includes direct and indirect receipts. Customer origin of the money did not defeat the TDS obligation. An agent's discretion over the Actual Fare also did not turn agency into a principal-to-principal sale or require the close control characteristic of employment. The margin arose incidentally from, and had a close nexus with, the entrusted ticket-selling activity. PSA clause 7.2 treated all collected monies, including remuneration, as held for the carrier until accounted for and settled. The BSP separately identified Supplementary Commission, enabling consolidated deduction through the IATA settlement machinery. The Revenue's proposed accounting mechanics were discussed as a practical means of implementing the duty, not as a universal new statutory deduction deadline. Sections 215 and 216 of the Contract Act did not change the nature of the relationship or assist the airlines. The Delhi High Court's section 194H conclusion was affirmed, and the contrary view in CIT v. Qatar Airways, 2009 SCC OnLine Bom 2179, was expressly overruled (paragraphs 33-51, 63).

Default, tax recovery and interest remained separate questions. Applying Hindustan Coca Cola Beverage Pvt. Ltd. v. CIT, (2007) 8 SCC 463, and CIT v. Eli Lilly & Co. (India), (2009) 15 SCC 1, the Court held that the Revenue could not recover the same shortfall from the airlines to the extent recipients had included and paid tax on that income. That did not erase the original deduction obligation or section 201(1A) interest, running from the deduction default to recipient payment. Although the parties agreed that tax had been paid, missing evidence and dates required verification by the Assessing Officer. Paragraphs 64-65 expressly preserve recovery according to law where an agent had not in fact paid tax (paragraphs 52-58).

Penalty was separately examined under section 271C read with section 273B. The Court drew a limited analogy with Eli Lilly's reasonable-cause analysis. When this historical controversy arose, the Supreme Court had not determined the supplementary-commission issue, different airlines took different positions and ensuing High Court decisions conflicted. The Court found reasonable cause for these appellant airlines' failure during the relevant period and expressly quashed their penalty proceedings in paragraph 62. Paragraph 65's qualification concerning section 273B must be read with that specific relief. This is neither an automatic penalty following every TDS default nor a blanket exemption whenever a recipient later pays income tax.

02 DISCUSSION BY THE HON'BLE COURT

Source: [reported rendition / paragraphs 19-32 / PDF pages 20, 21, 22, 23, 24, 25, 26, 27 / judgment](#); [reported rendition / paragraphs 33-51 / PDF pages 27, 28, 29, 30, 31, 32, 33, 34, 35 / judgment](#); [reported rendition / paragraphs 52-62 / PDF pages 35, 36, 37, 38, 39, 40, 41 / judgment](#); [official signed judgment / paragraphs 19-32 / PDF pages 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 / judgment](#); [official signed judgment / paragraphs 33-51 / PDF pages 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 / judgment](#); [official signed judgment / paragraphs 52-62 / PDF pages 42, 43, 44, 45, 46, 47, 48, 49, 50 / judgment](#)

03 JUDICIAL DECISION

The appeals were partly allowed. Section 194H liability on Supplementary Commission was upheld against all three appellant airlines, and Qatar Airways' contrary view was overruled. Further recovery of the TDS shortfall was barred to the extent the agents had actually paid tax on the same income. The Assessing Officer was directed to verify the necessary facts, including actual payment and dates, and expeditiously compute section 201(1A) interest from the airlines' deduction default to the agents' tax payment. If an agent had not paid, recovery from the airline in accordance with law remained open. Section 271C penalty proceedings against the appellant airlines were quashed on the reasonable-cause finding in paragraph 62, read with the section 273B qualification in paragraph 65. Pending applications were disposed of. No final airline-specific interest amount or fresh quantified demand was fixed by the Supreme Court.

Source: [reported rendition / paragraphs 51; 58; 62-68 / PDF pages 35, 38, 40, 41, 42 / judgment](#); [official signed judgment / paragraphs 51; 58; 62-68 / PDF pages 41, 42, 46, 50, 51, 52, 53 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed: Revenue on section 194H liability; appellant airlines on recipient-paid tax recovery and case-specific penalty relief; interest quantification remanded

All connected airline appeals partly allowed; section 194H holding affirmed; penalty proceedings quashed on reasonable cause; factual verification and interest computation returned to the Assessing Officer

Commission/agency issue decided on merits; relief on recovery conditional on recipient tax payment; interest amount left for verification/computation

The PSA, BSP and historical industry arrangement were central. Recipient payment must be verified; the result does not exempt all airline-agent margins, all periods or all TDS defaults from penalty or interest.

Source: [reported rendition / paragraphs 62-68 / PDF pages 40, 41, 42 / judgment](#); [official signed judgment / paragraphs 62-68 / PDF pages 50, 51, 52, 53 / judgment](#)

05 AKHB REVIEW POINT

Separate four questions in an airline-agent TDS file: the legal duty to deduct, duplicate recovery after recipient payment, the period and amount of interest, and the evidence of reasonable cause for penalty. Read the actual PSA and settlement records, including ownership, authority, indemnity, fiduciary collection and available BSP data. A customer-funded margin can fall within agency commission; the label or discretion over price alone is insufficient to decide the issue. Obtain agent-by-agent income inclusion, tax-payment evidence and dates before asserting revenue neutrality or computing interest. The specific penalty relief rests on the bona fide historical legal uncertainty found in these appeals, not merely on subsequent tax payment. Reconcile the original assessment records and source-table arithmetic before reusing the historical figures; do not convert the illustrative airfare table or the source's mixed temporal statutory quotations into a current rate guide. Later treatment and applicable statutory versions need separate checking; no automatic mapping to the Income-tax Act, 2025 is made.

Source: [reported rendition / paragraphs 7; 10-13; 26-32; 43-51; 56-65 / PDF pages 11, 12, 13, 14, 24, 25, 26, 27, 31, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42 / judgment](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue outcomes

1.

Issue: Section 194H on Supplementary Commission

Result: For Revenue against Singapore Airlines, KLM Royal Dutch Airlines and British Airways

2.

Issue: Section 201(1) recovery

Result: For airlines only to the extent recipient income tax was actually paid; recovery otherwise left open under law

3.

Issue: Section 201(1A) interest

Result: Survives; computation from deduction default to recipient payment remanded

4.

Issue: Section 271C penalty

Result: Proceedings against these appellant airlines quashed for the historical reasonable cause found under section 273B; no universal exemption

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

133A; 192; 194C

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Surya Kant, J.

CONNECTED APPEALS AND THEIR SCOPE

1.

Appellant: Singapore Airlines Ltd.

Respondent: C.I.T., Delhi

Case numbers: Civil Appeal Nos. 6964-6965 of 2015

Supplementary commission reported: Rs 29,34,97,709

Tds shortfall reported: Rs 2,93,49,770, excluding surcharge

Surcharge and interest reported: Rs 58,700 surcharge and Rs 21,13,224 interest

Aggregate demand reported: Rs 3,19,21,694

2.

Appellant: KLM Royal Dutch Airlines

Respondent: C.I.T. New Delhi

Case numbers: Civil Appeal Nos. 6966-6967 of 2015

Supplementary commission reported: Rs 179,00,49,410

Tds shortfall reported: Rs 18,25,85,040, including surcharge

Surcharge and interest reported: Rs 2,24,26,580 interest only; surcharge already included in shortfall figure

Aggregate demand reported: Rs 20,50,11,620

3.

Appellant: British Airways PLC

Respondent: Commissioner of Income Tax (TDS) Delhi

Case numbers: Civil Appeal No. 6968 of 2015

Supplementary commission reported: Rs 46,24,28,310

Tds shortfall reported: Rs 4,71,67,688, including surcharge

Surcharge and interest reported: Rs 60,08,391 interest only; surcharge already included in shortfall figure

Aggregate demand reported: Rs 5,31,76,079

STATUTORY REFERENCES AND THEIR SCOPE

1.

Provision: Income-tax Act, 1961, section 194H and Explanation (i)

Role: Core construction and holding

Paragraphs: 19-51; 63

2.

Provision: Income-tax Act, 1961, sections 201(1), 201(1A)

Role: Recovery and interest consequences; remand for verification and computation

Paragraphs: 52-58; 64-66

3.

Provision: Income-tax Act, 1961, sections 271C and 273B

Role: Penalty proceedings and case-specific reasonable-cause relief

Paragraphs: 59-62; 65

4.

Provision: Indian Contract Act, 1872, section 182

Role: Agency definition applied by the Court to the PSA

Paragraphs: 21-32; 63

5.

Provision: Indian Contract Act, 1872, section 211

Role: Assessee submission concerning agency duties; not an independent relief holding

Paragraphs: 17(iv)(c)

6.

Provision: Indian Contract Act, 1872, sections 215 and 216

Role: Section 216 invoked by assessee; both provisions examined and held unhelpful on these facts

Paragraphs: 17(vii); 48-49

7.

Provision: Income-tax Act, 1961, section 133A

Role: Survey background

Paragraphs: 10

8.

Provision: Income-tax Act, 1961, sections 194C and 192

Role: Provisions involved in quoted Hindustan Coca Cola and Eli Lilly precedents, not the commission provision adjudicated in these appeals

Paragraphs: 54-55; 60

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 42 PDF pages; SHA-256
5c697ce92c353dfdefed8da9a72715348de6dc2311be38e30e775bbe2531f5b4. Original bytes preserved.

[Open cited source rendition](#)

Full judicial text is SCR physical pages 9-42, paragraphs 1-68; earlier matter is editorial. No neighbouring judgment contaminates the asset.

The official original separately identifies Singapore Airlines (6964-6965/2015), KLM Royal Dutch Airlines (6966-6967/2015) and British Airways PLC (6968/2015); one common decision is counted.

Tables following paragraphs 7, 10 and 12 are image-based in the SCR extraction and were visually inspected; the paragraph 7 table is only an illustration. Original tables on physical pages 5-6, 8 and 9 provide a cross-check.

Singapore's paragraph 12 table in both renditions prints Rs 2,93,49,770 + Rs 58,700 + Rs 21,13,224 but an aggregate Rs 3,19,21,694. The components total Rs 3,15,21,694, a Rs 4,00,000 discrepancy; no correction is attributed to the Court.

AY 2001-02 is expressly stated, but paragraph 1's 01.04.2000 commencement differs from 01.06.2001 in paragraph 13 and the quoted provision. The 7%/9% standard-commission temporal note is not silently reconciled with the AY. The source facts are disclosed, not converted into a definitive transaction-period finding.

Paragraph 19 quotes a 5% rate and Rs 15,000 threshold, while the opening historical narrative uses 10% plus surcharge. Neither quotation is presented as today's law or a reconciled historical rate schedule.

Paragraph 62 expressly quashes penalty proceedings for these appellants; section 201(1A) interest survives. Recipient tax payment is subject to verification under paragraphs 64-65 and is not itself a blanket penalty defence.

Judicial paragraph 51 says the Qatar Airways view stands overruled; the reporter headnote uses disapproved. The note follows the judicial text.

Official original has 53 physical pages; its first-page footer says Page 1 of 50, whereas subsequent pages and the terminal footer show 53. Pins use physical PDF pages.

Official digital-signature stamp is dated 15 November 2022; the signed judgment date and SCR date are 14 November 2022 and control the decision date.

2022INSC1201 is unverified index metadata; [2022] 9 S.C.R. 1 is the verified displayed citation.

SCR citation verified on physical page 1. Index neutral citation 2022INSC1201 is metadata-only; it is not printed in either inspected judgment PDF and has not been independently verified.

Paragraphs 10, 11, 52 and 61 expressly identify AY 2001-02. That source description is retained, not silently replaced with an inferred AY. The judgment contains an unresolved commencement chronology: paragraph 1 prints 01.04.2000, whereas paragraph 13 and the section quoted in paragraph 19 refer to 01.06.2001. Paragraph 4 uses a 7% standard commission and its footnote says the rate before 01.01.2002 was 9%. Underlying transaction periods and historical rate provisions require separate verification.

A single common judgment disposes of the Singapore Airlines, KLM Royal Dutch Airlines and British Airways appeals. Airline-specific captions are verified on official physical pages 1-2; they are not separate Supreme Court decisions.

The amounts are the historical allegations/demands recorded in the tables following paragraphs 10 and 12, not Supreme Court recomputations or final sums recoverable after remand. Singapore's printed component figures total Rs 3,15,21,694, while the table prints Rs 3,19,21,694: a Rs 4,00,000 difference. Both renditions carry those figures; they are preserved without correction. The paragraph 7 airfare table is an illustration, not an actual transaction or assessment finding.

STATUTORY SCOPE

Historical airline-agency arrangement and the provisions as examined in the 14 November 2022 judgment; source contains mixed-date statutory quotations and a commencement-date inconsistency

No automatic mapping to the Income-tax Act, 2025; no current rates, thresholds or industry arrangements certified.

LATER TREATMENT

Source checked 2026-10-04. Subsequent review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This is a historical judgment note, not a citator status certificate or a statement of presently settled law.

IDENTIFIED SOURCE LINKS

[reported rendition - Physical PDF page 1 / SCR page 1 - PDF pages: 42](#)

SHA-256: 5c697ce92c353dfdefed8da9a72715348de6dc2311be38e30e775bbe2531f5b4

[official signed judgment - PDF pages: 53](#)

SHA-256: fe872cfc9c0359562156faccf6ec5fe9a7e8c8f781f07fd0587a6c838a780582

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