



CNR: KAHC010162072014

NC: 2026:KHC:41503-DB
ITA No. 181 of 2014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

INCOME TAX APPEAL NO. 181 OF 2014

BETWEEN:

SOLIZE PARTNERS INDIA PV LTD
HAVING ITS REGISTERED OFFICE
AT 2ND FLOOR, UNIT NOS.201-B AND 202
BRIGADE OPUS, NO.70/401, KODIGEHALLI GATE,
HEBBAL, BENGALURU-560 092.
REPRESENTED BY ITS CEO AND DIRECTOR
V S MAHADEVAN
(AMENDMEND VIDE ORDER DATED 30.07.2026)

...APPELLANT

(BY MS. PREKSHA R LALWANI., ADVOCATE FOR
SRI. KUMAR RAM RAGHURAM CADAMBI &
ADITYA MATOLLI(VK FILED A/W IA).,ADVOCATE)

AND:

THE INCOME TAX OFFICER
INTERNATIONAL TAXATION
WARD 1(1), RASHTROTHANA
BHAVAN, 14/3, 6TH FLOOR,
NRUPATHUNGA ROAD,
BANGALORE-560 001.

...RESPONDENT

(BY SRI.M DILIP.,ADVOCATE)

THIS ITA FILED UNDER SEC.260-A OF INCOME TAX ACT
1961, ARISING OUT OF ORDER DATED 05/12/2013 PASSED IN
ITA NO.936/BANG/2012, FOR THE ASSESSMENT YEAR 2010-
2011, PRAYING TO 1. ADMIT THE INSTANT APPEAL TO

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SHREERAKSHA
Location: HIGH
COURT OF
KARNATAKA



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ANSWER THE SUBSTANTIAL QUESTION OF LAW SET OUT IN PARA 29 ABOVE AND 2. SET ASIDE THE IMPUGNED ORDER DATED 05/12/2013 IN ITA NO. 936/B/2012 AT ANNEXURE-A AND QUASH ANY RECOVERY OR OTHER PROCEEDINGS INSTITUTED PURSUANT TO THE DIRECTIONS ISSUED THEREUNDER AND ETC.,

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The above appeal by assessee under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') is directed against the order dated 05.12.2023 in ITA No.936/B/2012 (Annexure - A) and also to quash any recovery or other proceedings instituted pursuant to the directions issued thereunder raising the following substantial questions of law:

- "a) Whether, the Tribunal was right in characterising the payments made by the Appellant to non-resident software owners for purchase of standardized software as royalty both under Article 12 of the applicable DTAA's and section 9(1)(vi) of the Act and therefore subject to withholding of tax under the Act?



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- b) Whether the Tribunal has erred in upholding the order of the CIT(A) without appreciating that what was transferred to the Appellant was a copyrighted material which was distinct from rights in a copyright i.e. neither the copyright in the software nor the use of the copyright in the software was transferred and nor did the Appellant have the right to make copies of the software for commercial exploitation and hence cannot be categorized as royalty?
- c) Whether the payments for purchase of shrink wrap software / off the shelf /standardized software is akin to purchase of goods which is treated as business profits/income of the non-resident and not royalty and hence not taxable in India in absence of the non-resident seller having a Permanent Establishment in India? Whether the decision of the Hon'ble Karnataka High Court in case of Samsung Electronics Co., Ltd (supra) is applicable to the Appellants case in view of the fact that the Appellant's case differs from the facts in Samsung Electronics Co., Ltd. case on various grounds and therefore the ruling would not be applicable in the present case?
- d) Whether the retrospective amendment to section 9(1)(vi) of the Act by the Finance Act, 2012 could impose an obligation on the Appellant to withhold taxes under the applicable DTAA's, and without prejudice to the same, for transactions entered in the past?
- d) Whether the retrospective amendment to section 9(1)(vi) of the Act by the Finance Act, 2012 could impose an obligation on the Appellant to withhold taxes under the



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applicable DTAA's, and without prejudice to the same, for transactions entered in the past?"

2. Heard learned counsel Ms.Preksha R Lalwani for Sri.Kumar Ram Raghuram Cadambi and Sri.Aditya Matolli for the appellant - assessee and learned counsel Sri.M Dilip for the respondent - revenue. Perused the entire appeal papers.

3. It is stated that the appellant - company is engaged in the business of re-sale of computer software licenses, services, installation, training and technical consultation. It is stated that the appellant - company filed return for the Assessment Year 2010-11 declaring nil income and, thereafter, appellant - company filed revised return of income on 19.07.2011 again declaring nil income. While assessing the return of the appellant, the payments made by the appellant to non-resident software owners was treated as royalty under the applicable DTAA as well as the provisions of the Act by the Assessing Officer. Aggrieved by the same, the appellant filed appeal before the Commissioner of Income Tax (Appeals)-IV, Bengaluru (hereinafter referred to as 'the CIT(Appeals)') and it is stated that, in the meanwhile, the Assessing Officer under



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Section 154 of the Act after providing an opportunity to the appellant, *suo moto* rectified an alleged mistake and recomputed the tax payable by the appellant. The CIT(Appeals) passed order on 29.05.2012 upholding the order passed by the Assessing Officer. Against the order of the CIT(Appeals), it is stated that the appeal was filed before the Tribunal. The Tribunal under impugned order upheld the order of the CIT (Appeals) as well as the assessment order.

4. During the course of hearing, learned counsel for the parties brought to our notice that the substantial questions of law raised herein are identical to substantial questions of law raised in ITA No.698/2023 preferred by revenue, which was rejected by judgment of Co-ordinate Bench of this Court dated 12.08.2025. Further, we are of the opinion that the substantial questions of law raised herein are answered by the Hon'ble Apex Court in ***Engineering Analysis Centre of Excellence Private Limited Vs. Commissioner of Income Tax and Another***, reported in ***(2022) 3 SCC 321***.

5. In the light of the above, the appeal deserves to be ***allowed***. Accordingly, substantial questions of law raised are



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answered in favour of the assessee and against the revenue. In view of the above, the appellant - assessee would be entitled for all consequential benefits.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

GSR
List No.: 1 Sl No.: 30