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TDS u/s 195 on Sponsorship & Trademark Rights – Indo-Singapore DTAA

Delhi High Court | Judgment dated 24 December 2025-W.P.(C) 15181/2004:LG Electronics India Pvt. Ltd. & Anr. Versus Director of Income Tax (International Taxation) & Anr.

Core Issue: The core issue before the Delhi High Court was whether a part of the sponsorship and advertising consideration paid by LG Electronics India Pvt. Ltd. to a Singapore-based entity, Global Cricket Corporation Pvt. Ltd., for association with ICC cricket events could be re-characterised as “royalty” for the right to use ICC trademarks and event marks, thereby attracting withholding tax under section 195 of the Income-tax Act, 1961, read with section 9(1)(vi) and Article 12 of the Indo-Singapore Double Taxation Avoidance Agreement.

Facts of the Case:-Global Cricket Corporation Pvt. Ltd., incorporated in Singapore, had obtained commercial and marketing rights in respect of cricketing events organised under the aegis of the International Cricket Council. In exercise of such rights, GCC entered into a Global Partnership Agreement dated 28 June 2002 with LG group entities, including LG Electronics India Pvt. Ltd., under which LG was appointed as a Global Partner for specified ICC events.

Under the agreement, LG acquired extensive sponsorship and advertising rights, including on-ground visibility through perimeter advertising boards, electronic screens, tickets, official event publications and websites. In addition, the agreement expressly granted LG a non-exclusive right to use ICC marks and event marks on advertising material throughout the “licensed territory”, which was defined to mean the entire world. The total consideration under the arrangement was USD 27.5 million, out of which USD 11 million was borne by LG Electronics India Pvt. Ltd.

Prior to remitting the amount to GCC, LG Electronics India applied under section 195 seeking permission to remit the payment without deduction of tax at source. The Assessing Officer rejected the application, holding that the payment constituted royalty. In revision under section 264, the Director of Income Tax partly accepted the assessee’s contention and held that the consideration was composite in nature, comprising two elements. Two-thirds of the amount was attributed to pure advertising and booking of space, while one-third was attributed to the right to use ICC trademarks and event marks, taxable as royalty at the rate of fifteen per cent under the Indo-Singapore DTAA.

Statutory Provisions Involved

Section 195 of the Income-tax Act mandates deduction of tax at source on payments to non-residents which are chargeable to tax in India. The chargeability of the income in question was examined with reference to section 9(1)(vi), which deems income by way of royalty payable by a resident to accrue or arise in India, subject to specified exceptions.

Explanation 2 to section 9(1)(vi) defines “royalty” to include consideration for the transfer of all or any rights, including the granting of a licence, in respect of a trademark, as well as consideration for the use or right to use a trademark. Thus, where a resident makes payment for acquiring the right to use a trademark in connection with its business, such payment is deemed to accrue in India as royalty.

The treaty position was examined under Article 12 of the Indo-Singapore DTAA. Article 12 defines “royalties” to mean payments of any kind received as consideration for the use of, or the right to use, any trademark or similar property. Article 12 further permits taxation of such royalties in the source State, subject to a ceiling of fifteen per cent of the gross amount where the recipient is the beneficial owner. The Court found that the treaty provisions were in complete harmony with the domestic law definition under section 9(1)(vi).

Meaning of “Reasonable Cause” (Contextual Explanation)

Although the controversy did not directly arise in the context of penalty provisions, the Court incidentally reaffirmed the principle that proceedings under section 195 involve a prima facie determination of taxability for withholding purposes. In income-tax jurisprudence, “reasonable cause” generally denotes a cause which prevents a person of ordinary prudence, acting under normal circumstances, from complying with a statutory requirement. It implies a bona fide belief based on reasonable grounds and absence of contumacious conduct. However, at the stage of section 195, the enquiry is not into the assessee’s culpability or penalty exposure, but into whether the sum is chargeable to tax, and if so, to what extent tax must be withheld.

Brief Arguments of the Parties

The assessee contended that the dominant purpose of the Global Partnership Agreement was advertising and sponsorship, and that the use of ICC trademarks was merely incidental and ancillary to such advertising. It was argued that no separate consideration was paid for the use of trademarks and that the attribution of one-third of the payment as royalty was arbitrary. Reliance was placed on the decisions of the Delhi High Court in Formula One World Championship Ltd., affirmed by the Supreme Court, and Sheraton International Inc., where incidental use of trademarks in the course of advertising or business promotion was held not to constitute royalty.

The Revenue argued that the agreement expressly granted LG substantive rights to use ICC and event marks worldwide on advertising material, websites and promotional

media extending far beyond the physical venues of the events. It was submitted that such rights constituted valuable intellectual property rights in the nature of trademarks, squarely falling within the definition of royalty under both domestic law and the DTAA. The Revenue also emphasised the assessee's own admission before the revisional authority that there was an element of trademark use under the agreement.

Findings of the High Court

The High Court upheld the stand of the Revenue and affirmed the order passed under sections 195 and 264. **On a detailed examination of the Global Partnership Agreement, the Court held that the right to use ICC and event marks was not a mere incidental facility but a substantive and enforceable right granted to the assessee for commercial exploitation.** The licensed territory being global and the permitted use extending to websites and promotional material unrelated to the physical conduct of matches demonstrated that the trademark rights were independent and commercially valuable.

The Court placed significant reliance on the assessee's own admission that there was an element of use of ICC trademarks. Once such use was admitted, the attempt to downplay it as merely incidental was rejected. The Court distinguished the decision in Formula One World Championship Ltd. on facts, observing that in that case the Indian entity was an event promoter compelled to use the trademark solely for hosting and promoting the event, with strict prohibitions on commercial exploitation. In contrast, LG was not an event promoter and enjoyed wide trademark usage rights for its own branding purposes. The decision in Sheraton International Inc. was also held to be fact-specific and inapplicable to the present case.

The apportionment of the composite consideration into advertising and royalty components was held to be reasonable and based on relevant material. The Court reiterated that at the stage of section 195, the authorities are required to make a reasonable and pragmatic allocation to safeguard the revenue, and such allocation does not amount to a final assessment.

Decision:-The Delhi High Court dismissed the writ petition and upheld the action of the tax authorities. It was held that one-third of the amount of USD 11 million paid by LG Electronics India Pvt. Ltd. to Global Cricket Corporation Pvt. Ltd. constituted royalty for the right to use ICC trademarks and event marks. Consequently, such amount was chargeable to tax in India and liable to withholding tax at the rate of fifteen per cent under section 195 of the Income-tax Act, read with section 9(1)(vi) and Article 12 of the Indo-Singapore DTAA.

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