



2026:DHC:1761-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 24th February, 2026*+ **W.P.(C) 1334/2026 CM APPL. 6504-6505/2026****DOCUSIGN INC.**

.....Petitioner

Through: Mr. Ajay Vohra, Sr. Adv. with Dr.
Shashwat Bajpai & Mr. Mayank
Chaturvedi, Adv.

versus

**THE INCOME TAX OFFICER, WARD INT. TAX 1(2)(2), CIVIC
CENTRE NEW DELHI**

.....Respondent

Through: Mr. Puneet Rai, SSC

CORAM:**HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE VINOD KUMAR****J U D G M E N T****DINESH MEHTA, J. (Oral)**

1. By way of present writ petition, the petitioner has challenged the order dated 11.08.2025 (mentioned as 15.04.2025), passed by the Office of Circle Int Tax 1(2)(2) (*hereinafter referred to as the 'Competent Authority'*) so also the certificate dated 11.08.2025, whereby the competent authority has issued a tax withholding certificate at the rate of 4% under Section 197 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*).
2. As per the petitioner, it is a non-resident company and a tax resident of the United States of America (for short 'USA'), with its principal place of business at San Francisco, California, USA. It is a software company that provides solutions for managing electronic agreements, including e-



signature services, contract lifecycle management, document generation, and web forms. Such services are provided in India through the global distribution arrangements and direct sales arrangements.

3. Mr. Ajay Vohra, learned Senior Counsel for the petitioner submitted that in spite of the fact that the nature of transactions carried out by the petitioner with its Indian counterpart is clear and though there is neither any involvement of royalty or copyright nor any reason to apprehend Fees for Included Services as per the India-USA Double Taxation Avoidance Agreement (*hereinafter referred to as 'India-USA Treaty'*), yet for no rhyme or reason the Competent Authority has issued a tax withholding certificate at the rate of 4%, without recording any reason for the same.

4. Learned Senior Counsel relied upon the judgment of Hon'ble the Supreme Court rendered in the case of **Engineering Analysis Centre of Excellence Ltd. v. CIT** reported in **(2022) 3 SCC 321** and submitted that the judgment of Hon'ble the Supreme Court is clear on the aforesaid issue and regardless of the fact that the petitioner in its application had relied upon the said judgment, the Competent Authority has not discussed the same and has proceeded to issue a certificate at 4%.

5. Learned Senior Counsel argued that in any case, the petitioner can be subjected to assessment proceedings and it is required to satisfy the Assessing Officer about the nature of transaction during assessment proceedings, hence the certificate issued at 4% rate is not justified.

6. Mr. Puneet Rai, learned Senior Standing Counsel for the respondent-Department on the other hand argued that none of the Authorities has so far examined the nature of transactions carried out by the petitioner and unless the transactions carried out by the petitioner are examined in requisite detail,



it cannot be said with certitude that the same are not taxable under the Act of 1961 read with the India-US treaty.

7. He submitted that in any case, tax withholding certificate and certificate of deduction of tax at lower rate is not final and once the assessment of the petitioner is made, it shall be entitled for the refund of the tax amount, in case it is found that no tax is payable.

8. Heard learned counsel for the parties.

9. On going through the impugned order, we find that the Competent Authority has not given any sustainable reason. He was required to dilate upon the nature of transaction and record his *prima-facie* opinion and also deal with petitioner's contention and the judgments relied upon.

10. Since almost 85% of the period is already over and the payments made to the petitioner have been subjected to 4% tax, though the transactions *prima-facie* looks to be not exigible to tax, we are of the view that it would be just and proper if a certificate of deduction at 2% is issued to the petitioner so that the concern of the Revenue that the petitioner can be subjected to scrutiny assessment can be addressed and some respite can be given to the petitioner as a substantial amount is otherwise being withheld by the respondents.

11. The petition is, therefore, partly allowed.

12. The respondent is directed to issue a tax withholding certificate requiring deduction of tax at 2%. The same be issued within a period of 10 days from today.

13. We hereby make it clear that our order shall apply only for the certificate to be issued pursuant to the petitioner's application for AY 2026-27 (i.e. FY 2025-26).



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14. For subsequent year(s) the Competent Authority shall be required to consider the petitioner's application and expeditiously issue tax withholding certificate in accordance with law.

15. With aforesaid directions, the petition along with pending application stands disposed of.

**DINESH MEHTA
(JUDGE)**

**VINOD KUMAR
(JUDGE)**

FEBRUARY 24, 2026/sr