$~69

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 17th February, 2026*

\+ W.P.(C) 1867/2026, CM APPL. 9120/2026 & CM APPL. 9121/2026

BEELINE COM LLC .....Petitioner

Through: Mr. Sachit Jolly, Sr. Advocate & Mr. Sohum Dua, Advocate.

versus

INCOME TAX OFFICER WARD INT TAX 11 2 DELHI & ANR. .....Respondents

Through: Mr. Ruchir Bhatia, SSC with Mr. Anant Mann, JSC.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT

DINESH MEHTA, J. (ORAL)

1. By way of the present writ petition, the petitioner has challenged the order dated 04.03.2025 (wrong date) issued by Income Tax Officer, Circle Int. Tax 1(1)(2) *(hereinafter referred to as 'Competent Authority')*, so also the consequential certificate dated 20.08.2025, issued under Section 197 of the Income Tax Act, 1961 *(hereinafter referred to as 'the Act of 1961')*.

2. As pleaded, the petitioner is a company incorporated in the USA and is a tax resident of the USA. It is engaged in providing Beeline Vendor Management System ("VMS"), solutions and services to facilitate sourcing and managing the contingent workforce for their customers through a web-based application delivered through Software as a Service model ("SaaS") for Financial Year (FY) 2025-2026. The petitioner-company had entered

into Software Services Agreements with various customers under which, the petitioner is providing them a non-transferrable, non-exclusive license to use Beeline VMS and other VMS software solutions facilitating automated sourcing of third-party non-employees for temporary staffing needs through such service suppliers.

3. Mr. Sachit Jolly, learned Senior Counsel for the petitioner submitted that the activities which the petitioner-company provided to Infosys Limited and other clients do not fall within the tax net and are, therefore, not taxable in India under the Act of 1961.

4. Learned Senior Counsel asserted that the petitioner-company provides an integrating software which does not provide enduring benefits and the company has to get it renewed each year and so far as manpower is concerned, the provider of manpower in the instant case is Pontoon Solutions Inc. and the manpower is not supplied by the petitioner-company, as is evident from perusal of the agreement signed between the petitioner and the Infosys Limited (*hereinafter referred to as 'the Agreement'*).

5. He submitted that in the backdrop of the facts involved in the present case, the petitioner's services, by no stretch of imagination, can fall within the expression 'fee for included services' under the India-USA Double Taxation Avoidance Agreement (*hereinafter referred to as 'India-USA DTAA'*) and therefore, the Competent Authority has erred in practically rejecting the petitioner's application and issuing a certificate at 15%, due to which Infosys Limited and other clients are required to deduct 15% from the payments made to it.

6. Having apprised the Court about the nature of the transactions, learned Senior Counsel submitted that for Assessment Year (AY) 2024-25,

the petitioner had filed its return of income and the same was accepted as such and refund of the tax deducted at source was granted. He further submitted that even for AY 2025-26, the petitioner's return has been processed and refund of the tax deducted at source has been granted.

7. Learned Senior Counsel, therefore, prayed that the impugned order dated 04.03.2025 so also the certificate dated 20.08.2025, which are clearly contrary to the facts involved in the present case and *de-hors* the clauses of the Agreement and nature of transactions be quashed and set aside and the Competent Authority be directed to issue a certificate at 'NIL' rate.

8. Mr. Ruchir Bhatia, learned Senior Standing Counsel for the respondent-Department submitted that the sole fact that refund has been granted to the petitioner-company for AY 2024-25 and 2025-26 does not have any bearing on the question of grant of certificate under Section 197 of the Act of 1961. Because, the same was not granted after regular assessment under Section 143(3) of the Act of 1961. He added that since no adjudication was made, simply on the basis of the fact that refund orders have been issued *qua* these two assessment years, a concrete decision or conclusion cannot be drawn that the services rendered by the petitioner under the agreement which has been placed on record are not taxable.

9. He further submitted that the Competent Authority has examined the Agreement in question and has concluded that the services are taxable and thereby, issued a certificate at 15% and argued that at the stage of issuing Tax Withholding Certificate under Section 197, the Competent Authority cannot examine the correct nature of the transactions and thus no interference should be made.

10. Having heard learned counsel for the parties and upon *prima-facie*

consideration of the material available record and on perusal of the various clauses of the Agreement, we are of the view that the petitioner has been able to demonstrate a fairly arguable case in its favour.

11. Since, we are deciding the issue emanating from an order and certificate under Section 197 of the Act of 1961, we do not propose to record any finding which may prejudice the case of either of the parties. However, since no authority including the Assessing Authority has so far considered the nature of transactions and other relevant material, as an Adjudicating Authority, we are not inclined to issue direction to issue a certificate at 'NIL' rate, as prayed by Mr. Sachit Jolly.

12. The writ petition is, therefore, partly allowed. While quashing the order dated 04.03.2025 and the certificate dated 20.08.2025, we hereby direct the Competent Authority to issue a certificate at 2% so that the assessee is required to file its return and the petitioner's case may be taken up for scrutiny if the same falls within the ambit of the scrutiny criteria as set by the Central Board of Direct Taxes (CBDT) from time to time. The requisite certificate be issued within a period of 15 days from today.

13. Taking note of the extant facts, we find that the petitioner had filed the application for grant of certificate on 04.03.2025 and the certificate came to the issued on 20.08.2025, even though there is a guideline for issuing the certificate within a period of 30 days.

14. We, therefore, direct that in case the petitioner files an application under Section 197 of the Act of 1961 for subsequent year(s), and the nature of the transaction remains the same, the Competent Authority shall consider the application within a period of 30 days from the day when the application is filed and shall issue the certificate, as deemed expedient.

15. In case the order and certificate issued pursuant to the application for subsequent years is prejudicial to petitioner's rights, it shall be free to approach this Court.

16. With aforesaid directions, the petition along with pending applications stands disposed of.

DINESH MEHTA
(JUDGE)

VINOD KUMAR
(JUDGE)

FEBRUARY 17, 2026/*nk*