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

\+ W.P.(C) 19691/2025 & CM APPL. 82149/2025

CVENT INC .....Petitioner

Through: Dr. Shashwat Bajpai and Mr. Mayank Chaturvedi, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE- (1)(2)(1) INT. TAX, NEW DELHI .....Respondent

Through: Mr. Indruj Singh Rai, SSC and Mr. Sanjeev Menon, Adv.

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

<u>O R D E R</u>

% **27.02.2026**

1. By way of present writ petition, the petitioner has challenged the order dated 17.11.2025 (mentioned as 05.09.2025), passed by the Office of Circle Int Tax 1(2)(1) (*hereinafter referred to as the 'Competent Authority'*) so also the certificate dated 17.11.2025, whereby the competent authority has issued a tax withholding certificate at the rate of 15% 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 Virginia, USA. It provides a platform for planning, marketing and executing events in both physical and hybrid manner. In order to provide its services, the petitioner has entered into third party agreements for procurement of standard, off the shelf software products intended to be used

for the Petitioner and its Associated Enterprise – Cvent India Private Limited for its day to day activities.

3. Mr. Shashwat Bajpai, learned 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 15%, without recording any reason for the same.

4. Learned 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 even the petitioner in its application had relied upon the said judgment, however, the Competent Authority has not correctly interpreted the same and has proceeded to issue a certificate at 15%.

5. Learned 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 the rate of 15% is not justified.

6. Mr. Indruj Singh 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 further 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 case of the Petitioner is covered by the judgment of ***Engineering Analysis Centre of Excellence Ltd. (supra)*** and the Competent Authority has not correctly dealt with the said judgment and has not taken other relevant factors into consideration. Hence, the certificate issued at the rate of 15% is unsustainable in law.

10. Since almost 85% of the period is already over and the payments made to the petitioner have been subjected to 15% tax, though the transactions *prima-facie* look 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 the rate of 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).

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, J.

VINOD KUMAR, J.

FEBRUARY 27, 2026/*nk*