# Legal Case Summary

Case Title: Commissioner of Income Tax, New Delhi vs M/S Eli Lilly & Company (India) Pvt. Ltd.

Citation: (2009) 15 SCC 1, AIR 2009 SC 2921

Date of Judgment: 25 March 2009

Bench: Justice S.H. Kapadia, Justice Aftab Alam

Author of Judgment: Justice S.H. Kapadia

## Parties Involved

Appellant: Commissioner of Income Tax, New Delhi

Respondent: M/S Eli Lilly & Company (India) Pvt. Ltd.

## Background / Facts of the Case

The case concerned taxation on salaries paid to expatriate employees seconded to India by foreign companies like Eli Lilly. The Indian entity paid part of the salary in India and foreign entities paid home salary abroad. The tax authorities sought to tax the entire salary (including home salary) and held the Indian employer liable for not deducting tax at source (TDS) under Section 192 of the Income Tax Act, treating it as 'assessee-in-default' under Section 201.

## Legal Issues Raised

1. Whether TDS provisions are independent of charging provisions.

2. Whether the Indian employer must deduct tax on salaries paid abroad by the foreign company.

3. Scope of Section 192, 201(1), and 201(1A) under the Income Tax Act.

## Judgment / Decision

The Supreme Court held that the Indian employer must deduct TDS under Section 192 for the entire salary (including home salary paid abroad) if services are rendered in India. It ruled that Section 192 must be read with Section 9(1)(ii) and that even if salary is paid abroad, it is taxable in India if related to services rendered in India. The Act is an integrated code linking charging, computation, and machinery provisions like TDS. Interest under Section 201(1A) is also mandatory.

## Final Order

• The appeal was allowed in part; employer held liable for TDS on salaries earned for services in India.

• Penalties may not apply where reasonable cause is established.

## Case Timeline

• 1992–2000: Financial years under dispute

• 25 March 2009: Supreme Court delivers judgment

## Relevant Legal Principles & Precedents

• Section 192, 201(1), 201(1A), and 9(1)(ii) of the Income Tax Act, 1961

• Income earned in India taxable regardless of where paid

• Integrated reading of charging and TDS provisions

## Key Takeaways

- TDS obligation applies even to salaries paid abroad for services rendered in India.

- Integrated approach required between charging and procedural provisions.

- Home salary is taxable in India and employer is responsible for deducting TDS.