VNG Automotive P. Ltd. v. Asstt. Commissioner of Income Tax

ITA 795/2004 & ITA 796/2004

2026:DHC:2975-DB; ITA 795/2004 & ITA 796/2004 | 2026-04-10

Interest on pre-commencement bank deposits of funds earmarked for committed plant/machinery and technical know-how obligations is a capital receipt reducing project cost under Bokaro Steel, not 'income from other sources' under Tuticorin Alkali; reopening of section 143(1)(a) intimation valid under Rajesh Jhaveri.

Income-tax Act, 1961: sections 35D, 143(1), 143(3), 147, 148 and 254; Rule 46A discussed

High Court of Delhi | 2-judge bench (Division Bench) | V. Kameswar Rao, J. | Vinod Kumar, J.

Assessment years: 1993-94, 1994-95

Split result and source figure variants

Question 1 was answered for Revenue; Question 2 for VNG, and both appeals were allowed. The source contains differing funding and know-how figures. The interest figures below follow the accounts and the Court's later analysis, not paragraph 3's variant.

01 FACTS OF THE CASE

VNG, incorporated on 24 March 1992 to manufacture ecological brake-shoes, agreed to acquire technical know-how from a Singapore company for USD 250,000. USD 50,000 was paid and the balance was payable over five years. It incurred project expenditure and placed remaining funds in bank deposits pending committed machinery and know-how payments. Interest of Rs.1,33,151 and Rs.2,37,770 for AYs 1993–94 and 1994–95 was adjusted against pre-operative expenses. Returns were processed under section 143(1)(a). Reopening in 2001 led to taxation of that interest. CIT(A) rejected reopening and granted merits relief; the ITAT reversed both conclusions on 23 June 2004.

Source: Own paras.1–12,42,48–51; PDF pp.1–6,17,20–23

02 DISCUSSION BY THE HON'BLE COURT

The Court upheld the reopening conclusion: processing under section 143(1) did not constitute a scrutiny opinion, and reopening remained possible where there was reason to believe income escaped assessment. It also held that the ITAT could examine the foundational jurisdictional issue within the appeal's subject matter despite the absence of a Revenue ground. On merits, the Court found that the deposits were earmarked for committed plant and machinery payments, not idle surplus. Applying Bokaro Steel and the project-nexus reasoning reproduced from Brahma Center, it distinguished Tuticorin Alkali. Paragraph 52 discusses section 35D benefit in this factual setting.

Source: Own paras.41–56; PDF pp.16–30

03 JUDICIAL DECISION

Question 1 was answered for Revenue and Question 2 for VNG. The common ITAT order was set aside, and both ITA 795/2004 and ITA 796/2004 were allowed.

Source: Own paras.57–58; PDF p.30

04 OUTCOME / IN WHOSE FAVOUR

VNG succeeded on the substantive interest issue for both years despite losing the reopening and Tribunal-jurisdiction question. The result rests on the finding that the deposited funds remained inseparably linked to setting up the project.

Source: Own paras.56–58; PDF p.30

05 EXPERT COMMENTS

Prove the commitment behind each deposit — The decisive distinction is between idle surplus and funds awaiting discharge of identified project obligations. A useful evidence schedule connects fund receipts, bank deposits, machinery advances, outstanding purchase payments and know-how instalments. Pre-commencement timing alone does not establish the nexus: the Court relied on what the money was earmarked to pay.

Keep jurisdiction and the merits separate — Winning the interest classification did not invalidate reopening. The original processing was under section 143(1), and the Court rejected a change-of-opinion objection while expressly retaining the reason-to-believe requirement. For this historical regime, examine the original processing and reopening reasons independently; do not treat disclosure in the accounts as equivalent to a scrutiny finding.

Address appellate scope, not only the grounds — The Court allowed the ITAT to examine a foundational issue within the subject matter of the appeal even without a specific Revenue ground. The quoted discussion still identifies the subject matter as the boundary. An appellate response should therefore identify that boundary and address the jurisdictional issue on its merits, rather than rely solely on silence in the memorandum.

Separate receipt classification from deduction computation — Paragraph 52 links section 35D benefit to these project facts. It does not supply a universal eligibility finding for every pre-operative expense. Trace the interest adjustment consistently through the project accounts and the deduction claim, checking the applicable year and eligible expenditure separately. Do not import the real-estate facts or borrowing-cost discussion from nested quotations as facts about VNG.

Source: Editorial analysis; own paras.42–57; PDF pp.17–30

SOURCE & VERIFICATION

Delhi High Court official digital judgment PDF - AKHB Cloud Repository

Thirty-page common judgment; own paragraphs 1–58 include extensive submissions and nested quotations. The Court's analysis begins at paragraph 41 on PDF p.16.

All 30 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Historical AYs 1993–94 and 1994–95. The source addresses reopening after section 143(1) processing, Tribunal jurisdiction and project-linked interest; section 35D benefit is discussed in this factual setting.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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