Purewal & Associates v. Commissioner of Income Tax

ITR 7/1995

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Historical section 139(10): belated company loss return treated as non est despite depreciation components.

139(1) | 139(3) | 139(10)

High Court of Himachal Pradesh | Division Bench | Deepak Gupta | Rajiv Sharma

Assessment years: 1988-89

01 FACTS OF THE CASE

For AY 1988-89 the return was due on 31 July 1988 but filed on 1 February 1989, showing a loss of Rs.66,62,817. The Assessing Officer, CIT(A) and Tribunal treated it as non est under the then section 139(10). The second question concerned carried-forward losses, unabsorbed depreciation and current-year depreciation included in the returned loss.

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02 DISCUSSION BY THE HON'BLE COURT

The Court examined the six exceptions in the historical proviso and held none applicable. It expressly treated the taxpayer as a company, not a partnership firm. A loss return showed income below the taxable threshold, and the untimely return did not satisfy section 139(3). The inclusion of depreciation did not remove the return from section 139(10).

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03 JUDICIAL DECISION

Question 1 was answered for Revenue, sustaining the non-est treatment. On question 2 the Court rejected any distinction based on depreciation within the loss, but the printed final sentence says against both the assessee and Revenue. A copy was directed to the Tribunal.

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04 OUTCOME / IN WHOSE FAVOUR

The taxpayer did not obtain recognition of the belated loss return. The substantive reasoning also rejects its depreciation-based argument, subject to the expressly disclosed inconsistency in the printed answer to question 2.

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05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

The company finding determines why the firm exception failed — The caption's trading name does not establish partnership status. The Court expressly said the taxpayer was a company and rejected the proviso's firm-or-partner exception on that basis. Any comparison with another taxpayer must first establish its legal status rather than infer it from the name.

Depreciation was considered within the validity question — The Court reasoned that including depreciation did not transform the loss return into an exception under section 139(10). That is narrower than a ruling on every later use of unabsorbed depreciation or every independent carry-forward provision; those questions were not separately determined here.

The omitted provision and defective final phrase limit reliance — The judgment itself notes that section 139(10) had been omitted. Its reasoning therefore belongs to the historical return regime for AY 1988-89. The contradictory printed phrase on question 2 should remain visible; the record supports rejection of the taxpayer argument but not a silently rewritten operative sentence.

Source: PDF p.2

SOURCE & VERIFICATION

20080310_HPHC010023761995.pdf

Complete source PDF reviewed: 5 physical pages.

All 5 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All five source pages read and visually inspected. Page 4 concludes question 2 against both assessee and Revenue, although its reasoning rejects the taxpayer claim. The note preserves that wording anomaly and does not invent a correction.

STATUTORY SCOPE

Historical section 139(10), expressly described in the judgment as since omitted; sections 139(1) and 139(3) discussed.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been 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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