Commissioner of Income Tax, Amritsar v. Kapil Bharany (Individual)

ITR 122/1990

No neutral citation stated in source | 2007-05-02

Share-loss reference returned unanswered because the amount involved was small.

256(1)

High Court of Punjab and Haryana | Division Bench | M.M. Kumar | Rajesh Bindal

Assessment years: 1982-83

01 FACTS OF THE CASE

The AY 1982-83 reference asked whether losses on 50 and 150 shares in Kashmir Woollen Pvt. Ltd., purchased in 1977 and 1980, were allowable as business loss. The Assessing Officer allowed Rs.13,500 as short-term capital loss on 150 shares but declined relief on the other 50. The Tribunal allowed the entire Rs.18,000 as business loss, producing an additional Rs.4,500 adjustment against taxable income.

Source: PDF p.1

02 DISCUSSION BY THE HON'BLE COURT

The Court reproduced the Tribunal's reasoning that the two purchases and subsequent sale showed an intention to make profits as a businessman. It did not adopt that reasoning as its own determination. Instead, it noted that the amount involved was only Rs.4,500 and declined to examine the referred question.

Source: PDF p.2

03 JUDICIAL DECISION

The question was returned unanswered because the amount involved was very small.

Source: PDF p.3

04 OUTCOME / IN WHOSE FAVOUR

The reference ended without a High Court ruling on business-loss versus capital-loss classification. The Tribunal's relief was left undisturbed, not affirmed on its merits.

Source: PDF p.3

05 EXPERT COMMENTS

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

An unanswered reference supplies no classification holding — The operative paragraph expressly declines to enter the question. The Tribunal's quoted profit-intention analysis explains the dispute but does not become a High Court rule merely because it appears in this order. A taxpayer seeking business-loss treatment must therefore establish that treatment independently rather than cite this disposal as authoritative approval.

The operative amount was the incremental relief — The Tribunal allowed a total loss of Rs.18,000, while Rs.13,500 had already been allowed by the Assessing Officer. The Court identified the remaining Rs.4,500 as the amount involved. These figures should not be conflated with a stated tax-demand amount: the order describes the loss adjustment, not a separately quantified tax effect.

A small-amount disposal is not a universal monetary bar — No circular, prescribed threshold or mandatory appeal restriction is invoked. The Court's decision to leave this reference unanswered must be read on its own terms. It provides a procedural outcome for this reference, not a numerical jurisdictional test for other cases or a current policy on Revenue litigation.

Source: PDF p.2

SOURCE & VERIFICATION

20070502_PHHC010215491990.pdf

Complete source PDF reviewed: 3 physical pages.

All 3 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All three pages read and visually inspected. The quoted business-loss reasoning belongs to the Tribunal; the High Court expressly declined to answer the question.

STATUTORY SCOPE

No statutory monetary threshold or CBDT circular is identified in this order.

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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