Commissioner of Income Tax, Udaipur v. Udaipur Shahkari Upbhokta Thok Bhandar Ltd.

ITA 45, 46, 49, 50, 51 and 53/2002

ITA 45, 46, 49, 50, 51 and 53/2002 | 2006-11-02

Regulated wholesale trading margin was not income from letting warehouses.

Income-tax Act,1961: sections 80P(2)(e)

High Court of Judicature for Rajasthan | Division Bench, Jodhpur | Rajesh Balia | Gopal Krishan Vyas

Assessment years: 1991-92 to 1996-97 (opening paragraph; caption ends 1995-96)

01 FACTS OF THE CASE

The consumer cooperative society operated thirty Udaipur branches and traded in controlled wheat, rice and sugar. It paid FCI for supplies, stored goods in owned or hired godowns and sold to authorised retailers at regulated prices. Revised returns claimed the retained margin as warehouse income under section 80P(2)(e). The AO refused; CIT(A) and the Tribunal allowed it. Six Revenue appeals were heard together.

Source: PDF pp.1–7

02 DISCUSSION BY THE HON'BLE COURT

The authorisation and price structure showed purchases and sales with property passing to the society. State controls did not turn it into a storage agent. The margin was its trading surplus, not payment for letting godowns to another. South Arcot and Bhandara Zilla were distinguished because their relevant agreements involved goods held for the Government; the Court expressly did not confine clause (e) to societies formed primarily to build warehouses.

Source: PDF pp.16–27, 36–40 and 46–53

03 JUDICIAL DECISION

All six appeals were allowed. The Tribunal and CIT(A) orders were set aside and the AO directed to recompute income consistently with the judgment. The society could claim godown-hiring expenses and depreciation on owned business godowns as allowable. No costs were ordered.

Source: PDF pp.53–54

04 OUTCOME / IN WHOSE FAVOUR

Revenue succeeded on the section 80P(2)(e) claim, with income to be recomputed. The judgment is dated 2 November 2006, despite the retained archive ID. Its caption gives AYs 1991-92 to 1995-96, while the opening paragraph gives 1991-92 to 1996-97; no individual appeal-year allocation is inferred.

Source: PDF p.1; pp.53–54

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

Ownership determines the receipt's character: Calling the retained amount commission did not establish agency. The Court traced payment of the purchase price, transfer of property, the licence and the resale proceeds. For a comparable claim, the agreement and transaction records must explain whose goods occupy the warehouse and who pays for its use; a price-control label alone does not answer that question. (PDF pp.19–27 and 36–40)

Distinguish storage services from storing own stock: A trader necessarily keeps inventory before sale. Treating that storage as a service to itself would convert ordinary trading profits into warehouse income. The Court nevertheless preserved clause (e) for qualifying warehouse income of other cooperative societies, including from hired premises; neither ownership of the building nor the society's principal object alone resolves the claim. (PDF pp.15–18 and 40–45)

Recomputation is not taxation of gross receipts: Failure of the claimed deduction did not erase allowable business costs. The operative direction expressly preserves godown hire and allowable depreciation. The cited agency decisions also show why mixed receipts require attention to their actual components rather than assuming that every payment described as commission receives identical treatment. (PDF pp.49–54)

Source: PDF pp.19–27 and 36–40

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 54-page original reviewed; source bytes verified.

Full original and all five panels re-reviewed on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Current law and subsequent treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have 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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