

Commissioner of Income-tax, Calcutta v. Jaipuria China Clay Mines (P) Ltd.

Civil Appeal No. 307 of 1964

[1966] 2 SCR 449 | 1965-11-01

Unabsorbed depreciation: the 1922 Act allowed earlier-year depreciation carried into the current allowance to be set off against income under other heads, including dividends.

Indian Income-tax Act, 1922: sections 6, 10(2)(vi) proviso (b), 24(1), 24(2) proviso (b) and 66

3-judge bench | K. Subba Rao, J. | J. C. Shah, J. | S. M. Sikri, J.

Assessment years: 1952-53

Historical depreciation regime

The holding addresses the 1922 Act as at 1 April 1952. It must not be treated as establishing the present carry-forward period, eligible income heads or ordering rules for depreciation and losses.

01 FACTS OF THE CASE

For AY 1952-53, the officer calculated Jaipuria China Clay Mines' business income at Rs.14,041 before current depreciation, deducted Rs.5,360 current depreciation and then set off Rs.8,681 of earlier losses, leaving business income nil. The company also had Rs.2,01,130 dividend income and Rs.76,857 unabsorbed depreciation from prior years. It sought to deduct that depreciation from dividends, but the officer, Appellate Assistant Commissioner and Tribunal refused. The Calcutta High Court held for the company, prompting Revenue's appeal.

Source: [Assessment computation, dividend income and Rs.76,857 unabsorbed depreciation: SCR pp.449-450 / PDF pp.1-2](#); [Referred question and applicable statutory date: SCR pp.450-451 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Reading the Act as at 1 April 1952, the Court started from total income across statutory heads and observed that section 10(2) did not generally distinguish depreciation from other business allowances merely because depreciation was not a cash outgoing. Proviso (b) to section 10(2)(vi) added unabsorbed depreciation to the following year's allowance and deemed it part of that allowance. Its reference to giving full effect in the assessment of the assessee or, for a registered firm, its partners contemplated set-off across their pooled income heads. The Court approved the line of High Court authority allowing that treatment. Section 24(2)'s proviso gave carried-forward ordinary business losses priority because they had a limited carry-forward life; it did not itself carry depreciation forward or confine the separate depreciation mechanism to business income.

Source: [Statutory scheme and text of depreciation/loss provisions: SCR pp.450-453 / PDF pp.2-5](#); [Cross-head set-off reasoning, authorities and loss priority: SCR pp.454-456 / PDF pp.6-8](#)

03 JUDICIAL DECISION

The Court held that the assessee could set off prior-year unabsorbed depreciation, deemed part of the current depreciation allowance, against income from sources other than the business and therefore against dividends. It agreed with the High Court's answer in the assessee's favour and dismissed Revenue's appeal with costs.

Source: [Set-off across income heads and operative dismissal: SCR pp.454-456 / PDF pp.6-8](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee. The Rs.76,857 brought-forward depreciation was available against dividend income under the historical provisions, and Revenue's appeal failed. The judgment distinguished the separate carry-forward and priority treatment of ordinary business losses.

Source: [Final answer for assessee and appeal dismissed: SCR p.456 / PDF p.8](#)

05 AKHB REVIEW POINT

AKHB analysis: build a year-by-year depreciation and loss roll-forward that separates current depreciation, brought-forward depreciation and ordinary business losses. Identify the statutory fiction that determines character, the ordering rule that determines priority, eligible income heads and any time limit for each pool. Do not transpose Jaipuria's 1922 Act result into a current computation without checking every intervening amendment and later authority.

Source: [AKHB analysis based on the statutory fiction and separate loss-priority rule](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full eight-page SCR report read and visually checked. The editorial headnote on the first part of PDF p.1 was distinguished from Sikri J.'s judgment beginning later on that page; the statutory extracts, authorities and operative dismissal through PDF p.8 were reviewed.

Open cited source rendition

Exact source bytes, SHA-256 and eight-page count match catalogue asset 1966_2_449_456; every PDF page was read and visually checked.

The judicial text verifies Civil Appeal No. 307 of 1964, decision on 1 November 1965, the three-member bench and AY 1952-53.

No published Jaipuria China Clay Mines record was found in content/supreme-court-cases.json or the reviewed-release archive; later notes that discuss or apply Jaipuria are citations, not duplicates.

STATUTORY SCOPE

This decision interprets the depreciation and loss provisions of the repealed Indian Income-tax Act, 1922 as they stood on 1 April 1952. The current Income-tax Act's section 32(2), set-off restrictions and later amendments or authorities have not been examined here.

LATER TREATMENT

Source checked 2026-10-10. Later treatment, statutory amendments and current set-off restrictions have not been comprehensively checked; no current-law or citator clearance is represented.

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