

Commissioner of Income-tax, Madhya Pradesh etc. v. M/s. Straw Products Ltd., Bhopal

Civil Appeals Nos. 893 and 894 of 1964

[1966] 2 SCR 881 | 1965-12-03

Historical depreciation reference: retrospective 1962 deeming provision applied, with vires excluded from reference proceedings

Indian Income-tax Act, 1922: sections 10(2)(vi), 10(5), 34(1) and 66(1) | Taxation Laws (Extension to Merged States and Amendment) Act, 1949: section 6 | Taxation Laws (Merged States) (Removal of Difficulties) Order, 1949: paragraph 2 | Taxation Laws (Merged States) (Removal of Difficulties) (Amendment) Order, 1962: Explanation clause (b)

Three-judge bench; judgment delivered by S. M. Sikri, J. | K. Subba Rao, J. | J. C. Shah, J. | S. M. Sikri, J.

Essential later-treatment warning: 1962 clause invalidated in 1967

The seven-judge decision in *Straw Products Ltd. v. ITO*, 20 October 1967, [1968] 2 SCR 1, declared clause (b) of the 1962 Explanation ultra vires and barred its use for depreciation-based taxation. This 1965 judgment did not adjudicate vires and is not authority that the clause remained enforceable.

01 FACTS OF THE CASE

Straw Products enjoyed a Bhopal ruler-agreement tax exemption ending 31 October 1948. For AYs 1952-53 and 1953-54 the officer originally allowed depreciation on original cost, then reopened the assessments and reduced the allowances by deducting hypothetical depreciation for the exempt years. The AAC, Tribunal and High Court preferred depreciation actually allowed. While Revenue's appeal was pending, the 1962 Order retrospectively defined that expression to include depreciation that would have been allowed absent the exemption. Revenue relied on that amendment; the assessee disputed its application and validity.

Source: [SCR pp. 883-886](#) / [PDF pp. 3-6](#)

02 DISCUSSION BY THE HON'BLE COURT

Without a deeming provision, actually allowed means allowance actually given effect to, not merely allowable. However the express 1962 Explanation changed that meaning retrospectively. A court deciding a sufficiently broad reference must apply a relevant retrospective amendment even if introduced after the earlier decision, provided the inquiry does not require uninvestigated facts. The referred question was broad enough. The Court refused to entertain the ultra vires challenge in this reference route, treating the Order as effectively amending the applicable tax law. The ruler's agreement alone exempted Straw Products; its argument that it was therefore never an assessee failed.

Source: [SCR pp. 887-890](#) / [PDF pp. 7-10](#)

03 JUDICIAL DECISION

For this reference, the retrospective 1962 Explanation applied to both assessment years. The correct basis for the written-down value as at 1 November 1948 was the officer's basis. The High Court's answer was set aside and the reference answered accordingly. This was statutory application without an adjudication upholding the Order's constitutional or substantive validity.

Source: [SCR p. 890 / PDF p. 10](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeals were allowed and the parties bore their own costs. This is the historical 1965 outcome only: in the separate 1967 writ appeal, a seven-judge Court declared the relevant 1962 clause ultra vires and prohibited tax on that notional-depreciation basis.

Source: [SCR p. 890 / PDF p. 10](#); later [\[1968\] 2 SCR p. 13](#); [Later invalidity order: \[1968\] 2 SCR p. 13](#)

05 AKHB REVIEW POINT

AKHB analysis: separate ordinary statutory interpretation, retrospective amendment and the jurisdictional route for challenging validity. Never cite this Revenue win without the later seven-judge invalidity decision. Establish whether an exemption arose from a ruler's agreement or a statutory order, since that distinction drove the comparison with Dharampur. Historical depreciation calculations and current written-down-value provisions need independent statutory analysis.

Source: [AKHB analysis based on SCR pp. 887-890 / PDF pp. 7-10 and later \[1968\] 2 SCR pp. 6, 13](#); [Later primary report records this reference appeal and subsequent writ route](#)

SOURCE & VERIFICATION

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

Complete 10-page report read, including all judicial text; reporter headnote distinguished from the Court's reasoning.

[Open cited source rendition](#)

All ten report pages read and exact PDF hash matched the catalogue.

The report's opening judicial paragraph prints Indian Income Tax Act, 1929, while the operative provisions, statutory quotations and context identify the 1922 Act; the note uses the latter.

The later 1967 primary report's account of these proceedings at SCR p. 6 and operative invalidity order at SCR p. 13 were independently checked. No comprehensive treatment search is claimed.

Different exemption sources explain the same-day Dharampur outcome. The later Straw Products writ appeal is separately published, not a duplicate of this reference appeal.

STATUTORY SCOPE

The ruling applies historical tax provisions in its stated factual setting; it is not an automatic crosswalk to current income-tax law.

LATER TREATMENT

Source checked 2026-10-12. Specific later treatment verified: the seven-judge Straw Products judgment of 20 October 1967, [\[1968\] 2 SCR 1](#), declared the relevant 1962 Explanation clause (b) ultra vires. The 1965 decision did not adjudicate vires. This specific check is not comprehensive later-treatment or current-law clearance.

IDENTIFIED SOURCE LINKS

[Later seven-judge Straw Products ruling, 20 October 1967, \[1968\] 2 SCR 1](#)

[Related note: Straw Products Ltd. v. Income-tax Officer, Bhopal & Others](#)

[Related note: Commissioner of Income-tax, Bombay v. Dharampur Leather Cloth Co. Ltd., Bombay](#)

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report; independent human review is not represented.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, applicable statutory version and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.