

Straw Products Ltd. v. Income-tax Officer, Bhopal & Others

Civil Appeal No. 303 of 1967

[1968] 2 SCR 1 | 1967-10-20

Limits on a historical removal-of-difficulties power: the Central Government could not deem never-allowed depreciation to have been actually allowed where no objective implementation difficulty remained after the 1949 order.

Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (Act 67 of 1949): sections 3, 6, 7 and 34 | Indian Income-tax Act, 1922: sections 10(2)(vi), 10(5)(b), 34(1)(b) and 60A | Taxation Laws (Merged States) (Removal of Difficulties) Order, 1949: clause 2 | Taxation Laws (Merged States) (Removal of Difficulties) Amendment Order, 1962: Explanation clause (b) | Income-tax Act, 1961: section 298 (argument left undecided) | Constitution of India: Articles 14 and 226

7-judge bench; unanimous judgment delivered by J. C. Shah, J. | K. N. Wanchoo, C.J. | M. Hidayatullah, J. | J. C. Shah, J. | R. S. Bachawat, J. | V. Ramaswami, J. | G. K. Mitter, J. | K. S. Hegde, J.

Assessment years: 1952-53, 1953-54

Objective precondition was essential

The existence of a difficulty was a reviewable condition precedent, not a matter made conclusive by the Central Government's subjective satisfaction.

Several constitutional questions were left open

After holding that no relevant difficulty existed, the Court did not decide inconsistency with the Act's essential scheme, excessive delegation, section 298 of the 1961 Act or Article 14.

Actually allowed did not mean notionally allowable

The holding addressed depreciation that had never been granted during the Bhopal exemption. It did not invalidate every deeming provision or every adjustment supported by an actual transitional difficulty.

Printed incorporation-year conflict preserved

The editorial headnote says the company was formed in 1937, while the Court's judgment states that it was incorporated in August 1935 and began business in 1939. The note uses the judicial recital and records, rather than silently correcting, the headnote difference.

01 FACTS OF THE CASE

Straw Products was incorporated in August 1935, began its Bhopal wrapping-paper business in 1939 and enjoyed a ruler's tax exemption ending 31 October 1948. After Bhopal merged with India, Act 67 of 1949 extended the 1922 Act. The 1949 Order counted depreciation actually allowed under merged-State law. For 1952-53 and 1953-54 the Income-tax Officer later reassessed on the theory that depreciation should be notionally deemed allowed during the exemption. A prior Supreme Court appeal construed actually allowed but did not entertain vires; Straw Products then brought the present Article 226 challenge to the 1962 Order, which added a deemed-depreciation explanation. The Madhya Pradesh High Court rejected it (SCR pp.3-7; PDF pp.3-7).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 6 authorised only provisions necessary to remove a difficulty arising in applying the extended law. The existence of that difficulty was an objective condition precedent open to judicial examination. Once the 1949 Order made actual merged-State depreciation count, no relevant difficulty remained for assesseees who had received none. Judicial rejection of the Revenue's preferred notional computation was not itself an implementation difficulty (SCR pp.7-12; PDF pp.7-12). Nor did section 10(5)(b) become unworkable merely because assets were acquired before the person became an assessee; actual cost less actual prior allowance still supplied a written-down value. The 1962 clause instead changed actually allowed into depreciation that would have been allowed (SCR pp.12-13; PDF pp.12-13). The Court therefore found it unnecessary to decide the remaining challenges concerning alteration of the Act's essential scheme, excessive delegation, section 298 or equality (SCR pp.7, 13; PDF pp.7, 13).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court allowed the appeal, set aside the High Court's order and declared clause (b) of the Explanation inserted by the 1962 Order ultra vires the Central Government's section 6 power. Revenue authorities were not entitled to levy tax using depreciation computed under that clause. Straw Products received costs in both courts (SCR p.13; PDF p.13).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Straw Products Ltd. The impugned notional-depreciation basis was unavailable; the Court did not itself quantify a substituted assessment (SCR p.13; PDF p.13).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: when an executive order claims to remove implementation difficulty, identify the precise obstacle, prove it existed objectively, and test whether the order merely enables the statute to operate or rewrites its substantive measure. A failed Revenue interpretation is not by itself a statutory difficulty. Keep the Court's narrow invalidity ground separate from the constitutional and 1961 Act arguments it expressly left undecided (based on SCR pp.7-13; PDF pp.7-13).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 13-page SCR report read and checked. The editorial headnote and adjacent-report boundary text were distinguished from the judicial opinion and operative order.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 13-page count match catalogue asset 1968_2_1_13; every page was reviewed.

The source verifies Civil Appeal No. 303 of 1967, the stated bench, issues, reasoning and operative result.

No published or archived standalone AKHB note with this source hash, case identity and operative decision was found.

STATUTORY SCOPE

The ruling concerns the extension of the repealed Indian Income-tax Act, 1922 to merged States, historical Bhopal tax exemption, Act 67 of 1949 and the 1949/1962 Removal of Difficulties Orders. It does not certify present written-down-value rules or the current scope of any removal-of-difficulties power. No current-law or comprehensive later-treatment clearance was undertaken.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.