

COMMISSIONER OF INCOME TAX (CENTRAL) DELHI v. HARPRASAD & CO. (P) LTD.

Present Supreme Court proceedings: Civil Appeal No. 494 of 1970; Originating High Court proceedings: Income Tax Ref. No. 51 of 1966

[1975] 3 SCR 696 | 1975-02-25

A capital loss incurred when the capital-gains head was outside the charge could not be computed and carried forward for adjustment against future taxable gains. Carry-forward is part of the statutory set-off scheme, not an independent entitlement.

3-judge bench | Y. V. Chandrachud, J. | R. S. Sarkaria, J. | A. C. Gupta, J.

01 FACTS OF THE CASE

For 1955-56, the company claimed a share-sale loss as a revenue loss. The appellate authority reduced the claimed amount from Rs. 84,862 to Rs. 28,662 and treated it as capital. Before the Tribunal, the company abandoned its challenges to the amount and characterisation and sought carry-forward under section 24(2A) and (2B).

The Tribunal allowed that claim as a legal issue, and the Delhi High Court agreed. Although the capital-gains levy was inoperative for the relevant period, the head remained listed in section 6 and its loss provisions remained on the statute book. The Revenue disputed whether those provisions could operate without a charge.

Source: [SCR 697G-699B](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court read the charging, definition and computation provisions together. Section 3 imposed one tax on total income. Section 2(15) required both income of the kind addressed by section 4(1) and computation in the manner prescribed by the Act. Under section 2(6C), capital gains entered income only when chargeable under section 12B.

Loss is negative income, so positive and negative results must be treated consistently within the applicable computation. Here neither capital gains nor capital losses entered taxable total income for the relevant period. Merely retaining the head and carry-forward provisions did not create a right to calculate an otherwise non-chargeable capital loss.

Carry-forward exists to permit a later statutory set-off. Section 24(2), concerning business, profession or vocation, supplied no independent capital-loss right. Nor did section 22(2A)'s return mechanism create one. The officer's incidental description of the loss as capital could not produce an entitlement absent from the statute. Authorities concerning losses under chargeable heads therefore did not answer this case.

Source: [SCR 700C-704G](#)

03 JUDICIAL DECISION

The Revenue's appeal was allowed with costs. The High Court's affirmative answer was reversed, and the Rs. 28,662 capital loss could not be determined and carried forward as claimed.

Source: [SCR 704H](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue appeal allowed. Result: Revenue. Costs: Appeal allowed with costs. Scope: Capital-loss carry-forward denied. Limit: Loss arising while this head was outside the charge for the relevant year.

Source: [SCR 704H](#)

05 AKHB REVIEW POINT

Begin with the charge for the loss year before examining computation, return requirements and future set-off. Distinguish an income source outside the charge from a chargeable source producing a loss or enjoying a specific exemption. Later exemption and loss provisions require their own text and judicial analysis.

Source: [SCR 702F-704G](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

9-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

The caption spells HARPRASAD; running headings use HARPARSAD. The historical dates conflict: SCR 699 describes non-taxable gains from 1 April 1948 to 31 March 1956 and restoration for assessment year 1957-58; SCR 703 instead uses 1 April 1957 and 1948-57, while the headnote prints restoration from 1 April 1948. This note relies on the undisputed non-chargeability for assessment year 1955-56 and does not silently reconcile those dates. The printed loss figures are retained without deriving a revised amount from the share-price recital.

STATUTORY SCOPE

Indian Income-tax Act, 1922: 2(6C), 2(15), 3, 4, 6, 12B, 22(2A), 24(1), 24(2), 24(2A), 24(2B), 24(3), 66(1); 1947 income-tax/excess-profit amendment, Indian Finance Act 1949 and Finance (No. 3) Act 1956 form the historical section 12B charge context.

No separate 1961 successor mapping adopted for this historical mechanism.

No direct 2025 successor mapping adopted. The old holding is not automatically carried into a different statutory scheme.

The checked section 536 preserves previous operation, accrued rights and liabilities, and specified earlier-tax-year and pending proceedings under the 1961 Act. Establish the governing year and savings before choosing a statutory comparison.

No automatic precedent carry-over or verified case-specific 2025 applicability is claimed.

LATER TREATMENT

Source checked 2026-10-07. Commissioner of Income Tax, Gauhati & Ors. v. M/s. Sati Oil Udyog Ltd. & Anr. (Supreme Court of India, 2015-03-24), paragraphs 10–11 and 22: Adopts Harprasad's proposition that income includes negative profit while examining retrospective additional-tax provisions. Its ultimate section 143(1A) construction still requires a proved attempt to evade tax; the negative-income proposition alone does not establish liability.

Bounded later judicial use is recorded; no comprehensive subsequent history, absence of contrary treatment or current-law certification is asserted.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 2025, as amended by Finance Act 2026](#)

Section 536(1) and (2)(a)–(e): physical 584–585, extracted lines 24385–24408. Selected official FA 2026 web-extracted text only; no raw-PDF, rendered-page or full-Act read claimed. No all-amendments or current-law certification.

[Commissioner of Income Tax, Gauhati & Ors. v. M/s. Sati Oil Udyog Ltd. & Anr. \(2015-03-24\), nonofficial judicial text reproduction](#)

Paragraphs 10–11; identity and paragraph 22 also inspected. Third-party public judicial text; no court-original PDF/image validation. The reproduction's reference to an Income Tax Act, 1995 is not adopted as statutory identity.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

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