

Brij Bhushan Lal Parduman Kumar etc. v. Commissioner of Income Tax, Haryana, Himachal Pradesh and New Delhi-III

Civil Appeal No. 1701 of 1974 / Civil Appeal No. 1702 of 1974 / Civil Appeal No. 1703 of 1974

[1979] 2 SCR 16 | 1978-10-06

Whether government-owned materials supplied at fixed rates for compulsory incorporation into M.E.S. works carried a profit element that could be added to cash receipts when estimating the contractors' income after rejection of their books.

Two-judge bench | P.N. Bhagwati, J. | V.D. Tulzapurkar, J.

Assessment years: 1965-66, 1966-67

Contract-specific best-judgment estimation; historical statutory setting

The exclusion concerns government-owned Schedule B stores supplied on the specific M.E.S. fixed-rate, compulsory-use and surplus-return terms, with no contractor profit element. The Court did not prescribe a universal profit rate or decide withholding or every turnover rule. Its source names no numbered assessment section; the 1961 setting is separately supported by recorded proceedings and historical commencement/savings text. Printed receipt figures and a stray sentence are disclosed. Comprehensive later treatment, current-law status and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The three appeals involved two Military Engineering Services contractors with materially identical lump-sum contract conditions. In CA 1701/1974, Brij Bhushan Lal Parduman Kumar had Delhi and Ambala works and returned Rs.44,462 for AY 1966–67, calculated at ten per cent of cash payments of Rs.4,44,622. It failed to produce the requested certificates for government-supplied stores, saying the departments were not cooperating. The Income-tax Officer estimated those stores at fifty per cent of cash payments, Rs.2,22,311, added them to cash receipts and applied ten per cent to Rs.6,66,933, assessing a rounded Rs.66,690. The Appellate Assistant Commissioner retained the inclusion but reduced the material estimate to twenty-five per cent, Rs.1,11,155 (physical pages 3–4/SCR 18 F–19 E).

CAs 1702–1703/1974 concerned Brij Bhushan Lal Ramesh Kumar for AYs 1965–66 and 1966–67. The first return declared Rs.18,684. The report prints inconsistent first-year cash figures of Rs.2,63,853 and Rs.2,66,853; the assessee offered a nine per cent estimate, but the Officer instead used ten per cent on Rs.3,07,605 including stores, then deducted depreciation of Rs.5,107 and assessed a rounded Rs.25,650. For the second year, the firm declared Rs.62,414 on cash receipts of Rs.6,24,144; the Officer added stores of Rs.1,36,520 and assessed Rs.76,070 on total receipts of Rs.7,60,664 (physical page 5/SCR 20 C–G).

The Court records that both firms' returns and book results were rejected because proper and reliable accounts had not been maintained, requiring best-judgment estimation. The Tribunal excluded the supplied materials from the estimation base. On the Revenue's references, the Punjab and Haryana High Court followed its earlier Brij Bhushan decision and restored inclusion. The assessees appealed by special leave against the 26 September 1973 High Court orders in References 38/1972, 2/1973 and 3/1973 (physical pages 3–7/SCR 18 C–22 D).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court independently restated and applied the limits on best-judgment assessment. An estimate must be honest and fair, rather than vindictive or capricious, and must bear a reasonable connection to available evidence and the case's circumstances. Some estimation is inevitable after rejection of accounts, but that does not dispense with an evidentiary basis. Earlier Privy Council income-tax reasoning and Supreme Court sales-tax cases were used to explain that common standard. The Court then framed the operative inquiry: did the government-supplied stores, on the actual contract terms, contain any element of profit? If not, their cost had to be excluded (physical pages 7–8/SCR 22 C–23 F).

The Court examined Schedule B and General Conditions 10 and 33 of the M.E.S. contracts. Specified materials were supplied by the department at fixed rates solely for use, fixing or incorporation into the works. The contractor undertook to bear loading, transport, storage, assembly and incorporation costs, but did not buy the specified stores out of its own pocket. Final government liability was determined using actual measurements and standardised rates. Materials brought by the contractor from its own sources were treated separately from the department's Schedule B supply (physical pages 8–10/SCR 23 G–25 F).

The specified departmental stores remained government property: the contractor had custody and had to incorporate them or return the surplus. The issue and return entries, including wear-and-tear adjustments, did not turn these materials into a sale to the contractor or a profit-bearing component of its receipts. Under these particular terms the Court found no possible profit element in the cost of the supplied stores. In contrast, materials independently purchased in the open market and supplied through the works could contain a contractor's profit. Although the profit from a works contract is ordinarily measured on the contract as a whole, its real value in these cases excluded the cost of the specified departmental stores (physical pages 10–11/SCR 25 G–26 H).

The Court accordingly rejected the Punjab and Haryana view and approved the contrary decisions identified from Kerala, Madras, Gujarat and Andhra Pradesh. Its application of the best-judgment standard was therefore concrete: the estimate could not impose a profit percentage on a component that, under the proved contract arrangements, produced no profit for these assessees (physical pages 11–12/SCR 26 E–27 B).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

All three appeals were allowed. The impugned High Court orders were set aside and the Appellate Tribunal's orders excluding the specified government-supplied stores from the profit-estimation base were restored. The Revenue was ordered to pay the assessee firms' costs of the appeals (physical page 12/SCR 27 B).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee firms

All three appeals allowed; High Court orders set aside; Tribunal orders restored; Revenue to pay appeal costs

Final decision on the supplied-material component of best-judgment profit estimation

The result depends on the fixed-rate, government-ownership, compulsory-use and surplus-return terms. It does not prescribe a universal net-profit rate or decide whether all employer-supplied materials must be excluded under every tax provision.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Separate the permissible estimation rate from the amount to which it is applied. Rejected books did not authorise adding a non-profit-bearing component to the estimate. The contracts, ownership, tender basis, supply accounting, use obligations and surplus-return terms explained why these stores were not a source of profit to the contractors. The decision is therefore stronger than an unsupported assertion that the department supplied materials, but narrower than a general exemption for all materials described that way.

Do not import the ten per cent rate as a universal judicial standard; the dispute resolved here was the supplied-stores base. Nor does this judgment adjudicate withholding, a later presumptive scheme, or a general turnover definition for other statutory purposes. The contractor's own purchased materials and the labour or handling work must not be conflated with the value of the department's stores.

Supplemental statutory scope analysis: the source itself gives ordinary income-tax returns, assessments, appeals and references for AYs 1965–66 and 1966–67 and the associated 1964–66 accounting periods. Official historical section 1(3) fixes general commencement on 1 April 1962; official historical section 297 repeals the 1922 Act and preserves identified pre-commencement returns, pending proceedings and notices, with separate transitional rules for older years. The recorded assessments concern later business periods and do not fit those old-Act savings. That combination supports the 1961 setting. This is editorial source analysis, not a Supreme Court ruling on section 297 or an attribution of a numbered assessment section.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Date, bench and all three appeals

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 16 heading and 18 B–D

Source role: reported metadata and judicial text

2.

Topic: First firm's period, amounts and assessment route

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 18 F–19 H

Source role: judicial text

3.

Topic: Second firm's two years and amounts; print anomalies

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 20 A–21 B

Source role: judicial text

4.

Topic: Court's independent best-judgment rule

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 22 C–23 F

Source role: judicial text

5.

Topic: Actual contract terms, measurement and ownership

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: SCR 23 G–25 F

Source role: judicial text

6.

Topic: Absence of profit and contrast with own purchases

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: SCR 25 G–26 H

Source role: judicial text

7.

Topic: High Court conflict and final relief/costs

Source url: [Open cited source](#)

Pdf pages: 12

Paragraphs: SCR 27 A–B

Source role: judicial text

8.

Topic: Supplemental commencement analysis, not an adjudicated issue

Source url: [Open cited source](#)

Pdf pages:

Paragraphs: Historical 1979 official text, section 1(1)–(3)

Source role: official statutory scope check

9.

Topic: Supplemental old-Act savings analysis, not an adjudicated issue

Source url: [Open cited source](#)

Pdf pages:

Paragraphs: Historical 1962 official text, section 297(1), (2)(a)–(m); specific reliance on (a)–(d)

Source role: official statutory scope check

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

V.D. Tulzapurkar, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax best-judgment assessment in the 1961 Act setting; the judgment does not name an Act year or numbered assessment provision. The historical connection is separately supported by the recorded proceedings and official commencement/savings text.

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

M.E.S. General Conditions I.A.F.W. 2249 (1963 print), Conditions 10 and 33 and Schedule B (contract terms, not tax enactments); Bihar Sales Tax Act and Travancore-Cochin General Sales Tax Act authorities are cited for the shared best-judgment standard; this case itself adjudicates income-tax assessments.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 12 PDF pages; SHA-256

2705e4f0b1993c2a7bcbfe4206873df666a1e0885bd98c1b1ecca85646a99a40. Original bytes preserved.

Judicial body begins physical page 3/SCR 18 D (Tulzapurkar J.) and ends physical page 12/SCR 27 B. Physical pages 1–2 and upper page 3 are reporter material. SCR 20 A contains a plainly anomalous intervening sentence; it is not used as a fact or holding. No neighbouring judgment included.

[Open cited source rendition](#)

Actual decision date is 6 October 1978; 1979 is the report volume year.; The judicial body names no Act year or numbered Income-tax Act assessment section. The 1961 setting is supported separately by the explicit post-commencement business/proceeding facts and official historical commencement/savings text, not by an invented section 144/145 holding.; SCR 20 A contains a stray sentence about yearly income tax of Rs.70 to Rs.80 that interrupts the account of the High Court precedent. It is a source anomaly, not a finding about these contractors.; The first-year cash receipts of the second firm appear as Rs.2,63,853 and Rs.2,66,853 on the same page (SCR 20 D–E). Both are disclosed; neither is silently corrected or used to recompute relief.; Parduman in the title appears as Praduman in the judicial facts. These are retained as a source spelling variant for the same first firm, not separate taxpayers.; No universal profit rate, general exclusion of all supplied materials, or statutory withholding/turnover rule is decided.

CA 1701/1974 concerns Brij Bhushan Lal Parduman Kumar, AY 1966–67, accounting period 1 October 1964 to 30 September 1965. CAs 1702–1703/1974 concern Brij Bhushan Lal Ramesh Kumar, AYs 1965–66 and 1966–67, accounting years ended 31 March 1965 and 31 March 1966. These are explicit judicial facts; the 1961 connection is checked separately against commencement and savings, not assumed from report year.

No numbered Income-tax Act provision is adjudicated or cited in the judicial body. Sections 1(3) and 297 are supplemental scope sources, not attributed holdings. No section 144, 145, withholding or presumptive-turnover rule is manufactured.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no current-law carryover certification. Verify the applicable statutory version separately.

LATER TREATMENT

Source checked 2026-10-05. not_verified. No later judgment is relied on and no comprehensive subsequent-treatment, amendment, present-law or 2025-mapping search is certified. The supplemental commencement/savings check establishes the historical setting only.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 12](#)

SHA-256: 2705e4f0b1993c2a7bcbfe4206873df666a1e0885bd98c1b1ecca85646a99a40

[official statutory text](#)

SHA-256: 6b4ce7867a03f75938a503ed2f6446a66ca5328d1f14dd90bb402bb37a428ff6

[official statutory text](#)

SHA-256: 8e85e842f791b4af368ebb4eb5f34ec32a4c332f30278902e7b0e63c580a530d

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