

Cloth Traders (P) Ltd., etc. v. Additional Commissioner of Income Tax, Gujarat-I, etc.

Civil Appeal No. 117 of 1975 and connected proceedings (full list below)

[1979] 3 SCR 984 | 1979-05-04

For the relevant historical years, was the relief base under section 85A and section 80M the full dividend received or dividend income after deductions, including interest on money borrowed to acquire the shares?

85A | 80M(1) | 57 | 257 | 80A(1)-(2) | 80B(5)

Three judges | P.N. Bhagwati, J. | D.A. Desai, J. | A.D. Koshal, J.

Assessment years: 1965-66, 1966-67, 1967-68, 1968-69, 1969-70

Historical authority: section 80M gross-dividend holding expressly overruled

Distributors (Baroda), five judges, 1 July 1985, expressly overruled Cloth Traders on the former section 80M deduction base. Preserve the 1979 result as history, not currently effective gross-dividend law. The later Court did not decide the correctness of predecessor-section interpretations; section 80AA's particular-assessee/year saving and later replacement of section 80M also require care. Comprehensive later treatment, current-law applicability and 2025 mapping remain not_verified.

01 FACTS OF THE CASE

Cloth Traders brought Civil Appeals 117 and 118 of 1975 from the Gujarat High Court judgment dated 28 November 1973 in ITR 21 of 1972. Those appeals concerned AYs 1965-66 and 1966-67, when section 85A governed the relief. The Tribunal also made direct references under section 257 because the Gujarat view differed from Bombay, Madras and Calcutta authority. The report lists Tax References 2, 6-9, 16 and 18 of 1975 (physical 6/SCR 989 B-E; judicial body physical 7-8/SCR 990 G-991 D).

The judicial recital identifies C.V. Mehta (P) Ltd. and Distributors (Baroda) Pvt. Ltd. for AY 1969-70, and H.K. (Investment) Co. Pvt. Ltd. for AYs 1965-66 through 1969-70. It describes three reference groups at the assessee's instance and one at the Commissioner's. The report does not expressly pair all company names, docket numbers and individual years. In particular, the recital for references 6-9 gives AYs 1966-67 through 1969-70; that four-number group must not be silently treated as five separate years.

The common issue concerned dividend receipts and deductions under section 57, especially interest on borrowings used to acquire the shares. The Court did not narrate company-by-company dividend or interest amounts, portfolios, or assessment computations. Its operative statutory division was section 85A for AYs 1965-66 to 1967-68 and section 80M for AYs 1968-69 and 1969-70, rather than one unchanged provision across every proceeding.

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

02 DISCUSSION BY THE HON'BLE COURT

Bhagwati J began with the historical progression from the 1933 super-tax exemption notification and section 56A of the 1922 Act to section 99(1)(iv) of the 1961 Act, section 85A from 1 April 1965 and section 80M from 1 April 1968. The Court drew support from Bombay, Calcutta and Madras decisions treating the predecessor relief as extending to gross dividends, and from South Indian Bank's construction of a self-contained exemption notification. These discussions explain the 1979 reasoning; the older statutes and notifications were not the operative provisions for every assessment before the Court (physical 8-18/SCR 991-1001).

The Court addressed the retrospective deletion of the opening words received by it. On its reading of the Finance Act, 1968 notes, the change extended relief to the beneficial recipient where shares were registered in another name. It did not convert the relief base to net dividend income. For section 99(1)(iv), the inclusion in total income was understood as identifying an eligible category of income rather than limiting relief to the quantum left after computation (physical 14-18/SCR 997-1001).

For section 85A, the Court similarly read the inclusion condition and the ensuing reference to income so included as referring to the dividend category. It therefore applied the rebate formula by reference to the full dividend. The distinction between a rebate from tax under section 85A and a deduction in computing income under section 80M remained part of the statutory setting (physical 18-19/SCR 1001 E-1002 C).

For section 80M, the Court extended that category-based reading to the deduction base. It considered sections 80A(1)-(2) and 80B(5), and treated the overall gross-total-income ceiling as sufficient protection where deductions exceeded the computed dividend component. It approved Madras Auto Service and rejected the contrary Gujarat approach. It also referred to the lack of a corrective amendment, assigning that point limited weight, and drew analogies with sections 80K, 80MM, 80N and 80-O. Those analogies did not separately dispose claims under those provisions (physical 19-22/SCR 1002 D-1005 H).

This is the historical reasoning that the later five-judge Distributors (Baroda) decision expressly rejected on section 80M. The later Court required the computed dividend income included in gross total income, rejected the separation of category from quantum, and stressed the statutory direction to deduct from that dividend income. It left correctness of predecessor-section interpretations outside the issue before it (bounded later reading, Distributors physical 18 and 22-25/SCR 795 and 799-802).

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

03 JUDICIAL DECISION

In its 4 May 1979 disposition, the Court allowed both Cloth Traders appeals and answered the questions in those appeals and all listed references for the respective assessees and against Revenue. It held that the relief under section 85A for AYs 1965-66, 1966-67 and 1967-68, and section 80M for AYs 1968-69 and 1969-70, was to use the entire dividend income without deducting interest on borrowings for the shares. The Commissioner was ordered to pay the respective assessees' costs of the appeals and references (physical 23/SCR 1006 A-C). This records the 1979 result; the section 80M construction was later overruled.

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Respective assessees in the 1979 appeals and references

Two appeals allowed; all seven numbered references answered for the assessees

Substantive historical statutory construction; section 80M holding later expressly overruled

No individual refund or quantified recomputation ordered in this report. Do not infer every company had identical years, amounts or factual circumstances. Later adverse treatment is not presented as a fresh disposal of these concluded proceedings.

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

05 AKHB REVIEW POINT

Archive this judgment as historical law with an immediate adverse-treatment warning. In *Distributors (Baroda) Pvt. Ltd. v. Union of India*, decided 1 July 1985, the five-judge Bench expressly overturned the section 80M construction. Its main opinion treated section 80AA as declaratory and therefore did not need to decide the independent retrospective-tax constitutional challenge. A.N. Sen J concurred while stressing caution in disturbing fiscal precedents. Do not describe this as merely a legislative change or as a dissent (*Distributors* physical 28-32/SCR 805-809).

Keep statutory reversal of the interpretation distinct from the legal effect on concluded assessee-years. The official 1995 section 80AA page reproduces both the computed-dividend rule inserted retrospectively from 1 April 1968 and Finance (No. 2) Act, 1980 section 44. That saving excludes section 80AA for the particular assessee and assessment year where, before 18 June 1980, the Supreme Court had already given a contrary section 80M decision on appeal or reference. It does not validate the gross-dividend proposition for unrelated years or taxpayers. No present reopening or enforceability conclusion for an individual assessment is certified.

The retained department-hosted 2011 compilation records later omissions of sections 80AA and 80M, and the intervening 2002/2003 version history (physical 424 and 535-536). More importantly, enacted Finance Act, 2020 section 40 inserted a different section 80M from 1 April 2021: the deduction is linked to dividends distributed by the recipient domestic company by the prescribed date, with a repeat-deduction prohibition. The new provision's number is no warrant to revive Cloth Traders' overruled formula. These are bounded historical checks, not a comprehensive amendment chain, current dividend-law answer or Income-tax Act, 2025 mapping.

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

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 117 of 1975 / Civil Appeal No. 118 of 1975 / Tax Reference No. 2 of 1975 / Tax Reference No. 6 of 1975 / Tax Reference No. 7 of 1975 / Tax Reference No. 8 of 1975 / Tax Reference No. 9 of 1975 / Tax Reference No. 16 of 1975 / Tax Reference No. 18 of 1975

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 117 of 1975

Outcome: Allowed; question answered for assessee

2.

Case number: Civil Appeal No. 118 of 1975

Outcome: Allowed; question answered for assessee

3.

Case number: Tax Reference No. 2 of 1975

Outcome: Reference question answered for respective assessee

4.

Case number: Tax Reference No. 6 of 1975

Outcome: Reference question answered for respective assessee

5.

Case number: Tax Reference No. 7 of 1975

Outcome: Reference question answered for respective assessee

6.

Case number: Tax Reference No. 8 of 1975

Outcome: Reference question answered for respective assessee

7.

Case number: Tax Reference No. 9 of 1975

Outcome: Reference question answered for respective assessee

8.

Case number: Tax Reference No. 16 of 1975

Outcome: Reference question answered for respective assessee

9.

Case number: Tax Reference No. 18 of 1975

Outcome: Reference question answered for respective assessee

Costs: Commissioner to pay costs of appeals and references to the respective assessees

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Source url: [Open cited source](#)

Pdf pages: 1; 6; 7

Paragraphs: Heading, proceedings/appearances; judicial opening at SCR 990 G

Source role: identity and judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: SCR 991 A-F, company/year and statutory boundaries

Source role: judicial text

3.

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14; 15

Paragraphs: SCR 995-998, historical statutory quotations and deletion qualification

Source role: judicial text

4.

Source url: [Open cited source](#)

Pdf pages: 18; 19

Paragraphs: SCR 1001 E-1002 C, section 85A

Source role: judicial text

5.

Source url: [Open cited source](#)

Pdf pages: 19; 20; 21; 22

Paragraphs: SCR 1002 D-1005 H, section 80M reasoning

Source role: judicial text

6.

Source url: [Open cited source](#)

Pdf pages: 23

Paragraphs: SCR 1006 A-C, all dispositions and costs

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Actual former section 85A tax-rebate and former section 80M income-deduction computation dispute. Section 57 deductions, particularly share-acquisition borrowing interest, supply the gross/net issue. Historical notifications and other Chapter VI-A provisions are supporting comparisons.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

P.N. Bhagwati, J.; single opinion of the Court

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Former section 99(1)(iv): reasoned predecessor interpretation used as support, not a separately disposed assessment year; Sections 80K, 80MM, 80N, 80-O and rule 20: analogies, not separate claims resolved; Indian Income-tax Act, 1922, sections 56A and 60A; 1933 exemption notification; sections 8, 12 and 16 in cited-case context; Finance Act, 1968, section 31(2)-(3): retrospective omission of received by it from predecessor provisions; section 80M opening similarly amended from 1 April 1968; Subsequent section 80AA, Finance (No. 2) Act, 1980 section 44 and Finance Act, 2020 section 40: auxiliary checks only

DATED OFFICIAL STATUTORY HTML COMPARISONS AND READING LIMITS

1.

Kind: official historical statutory html

Title: Income Tax Department, section 80AA, edition labelled 1995

Url: [Open cited source](#)

Accessed at: 2026-10-05T18:44:03.959703+00:00

Review scope: Freshly opened official page: edition identity, complete section 80AA and footnote 36 reproducing Finance (No. 2) Act, 1980 section 44 saving read. HTML section and quoted statutory saving, not a fresh 1980 Gazette download. No bytes/hash or current-law consolidation claimed.

2.

Kind: official historical statutory html

Title: Income Tax Department, section 80M, edition labelled 2024 (No. 2)

Url: [Open cited source](#)

Accessed at: 2026-10-05T18:44:03.959703+00:00

Review scope: Fresh official HTML reading of edition identity and complete English section 80M(1)-(2) and explanation on Hindi-interface page. Corroborates later distribution-linked text. Not a 2026 or 2025 Act applicability certificate; no PDF bytes/hash.

SOURCE & VERIFICATION

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

Identified source rendition: 23 PDF pages; SHA-256
35091122a9be9916124dfe893c4569cbb77257c09f8fcd30a579f4ae135228bd. Original bytes preserved.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: False; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

Printed SCR identity, bench and proceedings checked against material images. Frozen catalogue INSC identifiers are not independently authenticated. Judicial paragraphs are unnumbered; page/band pins used.

Numbered headnote propositions at physical 2-6 are editorial; the single judicial opinion is unnumbered and starts physical 7 G.; The source itself uses Chapter IVA at SCR 991 but elsewhere correctly describes Chapter VI-A; treat the former as a reporting anomaly, not a separate statutory scheme.; The quoted section 80M at SCR 997 still includes received by it, immediately followed by the explanation of its retrospective deletion; apply that qualification. The foreign-company statutory cross-reference in the quotation is not used to infer an additional holding or silently corrected.; The source quotes 80%/65% foreign-company and 60% domestic-company categories, then later uses whole-or-60% language. The decision concerns the relief base; no uniform percentage entitlement is certified across every year/company.; The 1979 reference involving Distributors (Baroda) is distinct from that company's 1985 writ judgment, which is already separately reviewed.; No comprehensive later treatment of the section 85A or section 99 predecessor discussion has been verified; the precise Distributors reservation is preserved.

Cloth Traders appeals: AYs 1965-66 and 1966-67. Judicial body: C.V. Mehta (P) Ltd. and Distributors (Baroda) Pvt. Ltd., each AY 1969-70; H.K. (Investment) Co. Pvt. Ltd., AYs 1965-66 through 1969-70. Appellate recital separately lists references 6-9 for AYs 1966-67 through 1969-70 and reference 18 for AY 1969-70; do not force an unprinted company-to-docket allocation. The final paragraph assigns section 85A to 1965-66 through 1967-68 and section 80M to 1968-69 and 1969-70.

Two appeals and seven numbered references, the latter grouped in the report as 2, 6-9, 16 and 18 of 1975. Judicial recital describes three assessee-initiated reference groups and one at the Commissioner's instance. It does not expressly match each named reference assessee to each number; no allocation is invented. Counsel/intervener appearances are not additional disposed proceedings.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk or present-day application. Complete amendment history, commencement, savings and later judicial treatment have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Only the expressly described bounded primary/statutory checks are verified. Comprehensive later treatment, current-law applicability and 1961-to-2025 mapping remain not_verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 23](#)

SHA-256: 35091122a9be9916124dfe893c4569cbb77257c09f8fcd30a579f4ae135228bd

[bounded later direct adverse treatment - PDF pages: 32](#)

SHA-256: 0ced495513c2a00720eb8319a902632041033ceef403303adbe5475b85d6cc1

[Income Tax Department, section 80AA, edition labelled 1995](#)

[historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

[official amending act - PDF pages: 87](#)

SHA-256: 2608fdf5eabdb4d1f99132cf1905546940946f6b616e593bb862b9fc488435d2

[Income Tax Department, section 80M, edition labelled 2024 \(No. 2\)](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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