

Commissioner of Income-Tax, Bombay City-III, Bombay v. Shantilal Private Limited, Bombay

Tax Reference Case No. 4 of 1978

[1983] 3 SCR 470 | 1983-07-21

Whether compensation awarded on an arbitrated dispute following breach of a commodity-sale contract was a loss from a speculative transaction under section 43(5), merely because actual delivery had not occurred.

43(5) (definition of speculative transaction) | 257 (direct Tribunal reference to Supreme Court)

Three-judge bench | R.S. Pathak, J. | E.S. Venkataramiah, J. | Amarendra Nath Sen, J.

Assessment years: 1971-72

Breach compensation is distinct from contractual close-out

For AY 1971-72, the Court treated damages awarded by arbitration after an actual breach and dispute as settlement of that dispute, not settlement of the original contract within section 43(5). The label “damages” or absence of delivery alone does not establish this result for another transaction. This company case is separate from Apoorva Shantilal Shah’s HUF partition case. Comprehensive later treatment, current statutory status and 2025 mapping are not verified.

01 FACTS OF THE CASE

For AY 1971-72 Shantilal Private Limited claimed Rs.1,50,000 paid as damages to Medical Service Centre as a business loss. It had contracted to sell 200 kilograms of Folic Acid USP at Rs.440 per kilogram, with delivery due on or before 1 November 1969. Its case was that the price rose sharply, as high as Rs.2,000 per kilogram, and it could not fulfil the contract. A dispute over compensation was referred to arbitration. The award directed payment of Rs.1,50,000, and the High Court made a consent decree in its terms (physical pages 2–3/SCR 471–472).

The Income-tax Officer characterised the transaction as speculative under section 43(5). The Appellate Assistant Commissioner distinguished settlement of damages for breach from settlement of the contract and allowed the business-loss claim. The Tribunal dismissed the Revenue’s appeal on 18 February 1976. Because of an apparent High Court conflict, the Tribunal directly referred the legal question under section 257. This was Tax Reference Case 4 of 1978, not an appeal from a High Court merits judgment (physical pages 2–3).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court treated the award as unquestionably proceeding on breach of contract. Section 43(5) addressed settlement of a purchase or sale contract otherwise than by actual delivery or transfer. It did not follow that every payment connected with non-delivery settled the contract in that statutory sense (physical pages 3–4).

The Court drew the contract-law distinction. Under section 63, a promisee may accept another satisfaction in place of performance, dispense with it or remit it. By contrast, where parties dispute the matter and cannot agree on discharge, breach may create a right under section 73 to compensation for resulting loss. An award of damages for that breach settles the resulting dispute; it is not the same juridical event as the promisee accepting substituted satisfaction of the original contract. The legal sense of settlement, rather than an undifferentiated everyday use of the word, controlled section 43(5) (physical pages 4–5/SCR 473–474).

Accordingly, where there is breach and damages are awarded as compensation by arbitration on the parties' dispute, the transaction is not speculative within section 43(5). The Court declined to endorse the contrary Madras view in *R. Chinnaswami Chettiar*, and approved *Pioneer Trading Company and Bhandari Rajmal Kushalraj*. It explained that *P.L.K.N. Meenakshi Achi*, *A. Muthukumara Pillai* and this Court's *Devenport* decision did not involve the point before it. Those decisions were not treated as deciding the same issue adversely (physical page 5).

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

03 JUDICIAL DECISION

The referred question was answered in the affirmative, in favour of the assessee and against the Revenue: the Tribunal was right that the loss was not incurred in a speculative transaction within section 43(5). There was no order as to costs (physical page 5/SCR 474 D).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Direct section 257 reference answered affirmatively for assessee; no order as to costs

Final reasoned interpretation of section 43(5) applied to breach-based arbitration damages

The holding depends on an actual breach and adjudicated compensation for the resulting dispute. It does not exempt every non-delivery settlement merely because its payment is labelled damages.

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

05 AKHB REVIEW POINT

Establish what the payment legally discharges. The evidence should distinguish a contract closed out through substituted satisfaction from a breach followed by a genuine compensation dispute and award. Non-delivery is important but is not the entire statutory analysis. The decision resolves the speculative-transaction objection on these facts; it should not be rewritten as a general deduction rule for all contract payments or as an adjudication of the claim's timing.

A bounded reading of the government-hosted 2011 compilation, physical pages 315–316, confirms that its section 43(5) retains the settlement/actual-delivery formulation while also setting out specific exclusions, including a derivatives provision. That is a later statutory comparison only. Neither that historical compilation nor this 1983 holding alone establishes the treatment of a present-day transaction.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Date, bench, reference identity and judicial opening

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 470 heading; 471 C–F

Source role: reported metadata and judicial text

2.

Topic: AY 1971-72, commodity contract, Rs.1,50,000 damages and procedural history

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: SCR 471 G–472 F

Source role: judicial text

3.

Topic: Sections 43(5), 63 and 73; breach dispute versus settlement of contract

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 473 A–474 B

Source role: judicial text

4.

Topic: Authorities distinguished, affirmative answer and costs

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 474 B–D

Source role: judicial text

5.

Topic: Later section 43(5) definition and displayed statutory exclusions

Source url: [Open cited source](#)

Pdf pages: 315; 316

Paragraphs: Section 43(5), provisos and explanation; separate editorial history

Source role: bounded later statutory comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R.S. Pathak, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (section 43(5) as applied to AY 1971-72)

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Contract Act, 1872: sections 63 (acceptance of substituted satisfaction/remission) and 73 (compensation for breach)

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256

52996b50107535f7475d50ba9fc79eefe75d18eca7241287fd0e91166d65a55e. Original bytes preserved.

Unnumbered judicial body begins physical page 2/SCR 471 E and ends page 5/SCR 474 D. Page 1 and opening page 2 are reporter headnotes, followed by reference metadata. No neighbouring judgment.

[Open cited source rendition](#)

The company Shantilal Private Limited and the individual/HUF Apoorva Shantilal Shah are separate parties, proceedings and issues.; This is the direct section 257 Tax Reference Case 4/1978; the operative order answers the question, rather than allowing or dismissing an appeal.; The Court's breach-versus-settlement distinction must be preserved: calling a close-out payment damages is not itself decisive.; The source's first-page bench heading identifies A.N. Sen; external metadata variants are not substituted for the original report.; The result is confined to the section 43(5) issue referred. No separate accrual-year, payment-year or universal section 37 deduction ruling is inferred.; The 2011 compilation is a bounded later statutory source, not current-law certification or a comprehensive subsequent-treatment search.

The judicial body expressly identifies AY 1971-72 at physical page 2/SCR 471 G. No assessment period is inferred from the 1983 decision date.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. Identify the applicable statutory version and procedural route separately.

LATER TREATMENT

Source checked 2026-10-04. not_verified. Actual bounded later statutory comparison: Department of Revenue-hosted Income-tax Act 2011 compilation, physical pages 315–316, section 43(5) and provisos/explanation; statutory text kept distinct from editorial amendment footnotes. No later merits judgment is claimed as verified treatment of Shantilal. A corpus name search yielded other Shantilal cases and an illustrative reference in Madras Bar Association; those are not represented as merits approval of this holding.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 5](#)

SHA-256: 52996b50107535f7475d50ba9fc79eefe75d18eca7241287fd0e91166d65a55e

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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