

Lohia Machines Limited and another v. Union of India and others

Writ Petition No. 4509 of 1980 and connected proceedings (full list below)

[1985] 2 SCR 686 | 1985-01-25

Whether Rule 19A validly excluded borrowed monies and debts and fixed the first day of the computation period for section 80J relief, and whether the Finance (No. 2) Act, 1980 incorporation of that computation into section 80J with retrospective effect from 1 April 1972 was valid.

80J(1) (historical deduction and capital-computation delegation) | 80J(1A) (Finance (No. 2) Act, 1980 incorporation with effect from 1 April 1972) | 80J(2)-(6) (historical scheme, duration, carry-forward and eligibility context) | 2(33) (prescribed) | 295 (rule-making power) | 296 (parliamentary laying/control) | 84 (historical predecessor)

Five-judge Constitution Bench; 4:1 majority | Y.V. Chandrachud, C.J. | P.N. Bhagwati, J. | Amarendra Nath Sen, J. | D.P. Madon, J. | M.P. Thakkar, J.

Assessment years: See the source-scope notes; no year inferred.

4:1 decision; historical computation and source-group limits

The Court upheld Rule 19A and the 1980 section 80J amendment, retrospectively from 1 April 1972, and dismissed all writ petitions with own costs. A.N. Sen's contrary conclusions and proposed appeal relief are dissent only. The majority treated the amendment as clarification of an already valid rule; do not infer universal validity of retrospective tax withdrawals or a current-law capital rule. This report abbreviates the connected dockets, states no petitioner-specific assessment years, and gives no separate majority appeal schedule; its headnote also misprints the Act's year. Comprehensive later treatment, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

The connected Article 32 petitions challenged the computation of the historical section 80J deduction, rather than merely disputing an arithmetical assessment. They attacked Rule 19A in two respects: exclusion of borrowed monies and debts, including long-term borrowings, and valuation of capital employed at the first day of the computation period instead of taking account of capital introduced during the year. They also challenged the 1980 statutory incorporation of that rule with retrospective effect from 1 April 1972. The report does not give petitioner-specific assessment years or deduction amounts (physical pages 18, 33-37).

The majority traced the scheme from section 15C of the 1922 Act through section 84 of the 1961 Act to section 80J, effective from 1 April 1968. The earlier rules excluded borrowed monies. Rule 19A initially made specified exceptions for company debentures and approved-source borrowings for creating an Indian capital asset, repayable over not less than seven years; it also shifted to first-day computation. The borrowing exceptions were withdrawn with effect from 1 April 1972. Thus, the challenged exclusion cannot be projected indiscriminately across the earlier exception period (physical pages 19-30).

Tribunal and High Court decisions differed on the validity of the exclusion and first-day rule. The Finance (No. 2) Act, 1980 inserted section 80J(1A) and replaced the reference to prescribed computation in section 80J(1), retrospectively from 1 April 1972. The manner of computation was thereby placed in the statute itself. The assessee argued that the rule curtailed the statutory benefit and that retrospective withdrawal violated Articles 14 and 19(1)(g) (physical pages 31-37).

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

02 DISCUSSION BY THE HON'BLE COURT

Majority, Bhagwati J for Chandrachud C.J., Bhagwati, Madon and Thakkar JJ: "capital employed" had no single fixed legal, accounting or commercial meaning invariably including all long-term borrowings. The controlling phrase was capital employed computed in the prescribed manner. In this setting, computation could include and exclude items; prescribing exclusion of borrowed monies did not alter a fixed statutory concept. The legislative history and cognate fiscal statutes supported that construction. Deductibility of borrowing interest, without adding it back, made exclusion from the capital base consistent with those analogies (physical pages 37-57).

The majority did not treat prolonged acquiescence or laying a rule before Parliament as curing an otherwise ultra vires rule. It used past practice and parliamentary conduct as interpretive context, expressly preserving judicial review of vires. On excessive delegation, Parliament had itself laid down the essential policy of relief for qualifying new undertakings and the period of relief. The variable computational details could be delegated, particularly in a tax-relief provision, while section 296 retained parliamentary control. The owners-capital policy was not irrational merely because borrowers received a smaller capital-base benefit (physical pages 37-40 and 52-62).

On timing, section 80J(1) used capital computed "in respect of" the previous year, not an instruction to average capital employed throughout that year. The concluding parenthetical description using "during" did not displace the operative language. The Board could therefore choose the first day of the computation period. The majority also upheld the ship formula: written-down value reduced by acquisition borrowings or debts owed as on the computation date (physical pages 62-64).

Because Rule 19A was valid, its incorporation in section 80J by the 1980 Act was merely clarificatory. On that basis the majority upheld the retrospective amendment. It expressly found it unnecessary to examine separately the assessee's constitutional objections premised on the rule being invalid and the amendment withdrawing an existing benefit. It did not announce that every retrospective fiscal withdrawal is constitutional (physical pages 34, 36-37 and 64).

Dissent only, A.N. Sen J: he read section 80J as clearly covering both owned and borrowed capital actually employed to produce the year's profits. A power to prescribe computation did not permit the Board to remove that substantive benefit, and unconfined exclusion would involve impermissible delegation. He likewise rejected first-day computation. He nevertheless accepted Parliament's power prospectively to limit relief to owned capital and rejected the Article 14 attack on that classification. In his view the retrospective amendment instead deprived assessee's of accrued statutory relief, imposed potentially grave accumulated burdens, and was arbitrary and contrary to Article 19(1)(g). He distinguished correction of a defective levy from retrospective withdrawal of an existing benefit. Those conclusions and the associated proposed relief are the dissent, not the Court's holding (physical pages 64-98).

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

03 JUDICIAL DECISION

By a four-judge majority, Rule 19A's borrowing exclusion, first-day computation and the stated ship computation were upheld within the delegated authority; the 1980 statutory incorporation, retrospectively from 1 April 1972, was upheld as clarificatory. The majority directed dismissal of the writ petitions, with each party bearing its own costs (physical page 64/SCR 749 C-F).

The final Court order, following the dissent, expressly dismisses all the writ petitions and directs both parties to bear their own costs (physical page 98/SCR 783 B-C). Sen J's preceding proposal to dismiss Union appeals, allow the assessee's Madhya Pradesh appeal, and allow the writ challenge only against retrospective operation did not become the operative order. This rendition does not establish a separate majority appeal-by-appeal disposition, individual tax adjustment or remand.

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Union of India / Revenue, by 4:1 majority

All writ petitions dismissed; parties to bear their own costs

Final reasoned constitutional/statutory decision on the historical capital-computation scheme

Historical section 80J and Rule 19A, including the 1980 incorporation from 1 April 1972. Complete companion docket list, petitioner-specific assessment years and a separate majority appeal-by-appeal disposition are not supplied in this source.

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

05 AKHB REVIEW POINT

Keep the two-stage reasoning intact: the majority first construed the original delegation and upheld the rule; it then treated statutory incorporation of the same rule as clarification. A proposition about retrospective deprivation cannot be detached from that premise. Equally, capital employed is context-dependent, not universally synonymous with either owned capital or all business funds. Check the particular statutory version, borrowing exceptions and computation date before applying the decision.

Bounded later primary checks: Escorts (1992), physical page 8/SCR 160 F-G, describes the section 80J controversy as settled by Lohia, but decides a different section 35(2) amendment. R.C. Tobacco (2005), physical pages 13-14/SCR 354-355, records counsel relying on Sen J's dissent; the Court nevertheless upheld the distinct retrospective excise measure before it at page 28/SCR 369. Neither check turns the dissent into binding law or certifies comprehensive subsequent treatment, present-law applicability or a 2025 statutory mapping.

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

APPEAL AND PROCEEDING NUMBERS

Writ Petition No. 4509 of 1980 / Writ Petition No. 4542 of 1980 / Writ Petition No. 4543 of 1980 / Writ Petition No. 6188 of 1980 / Other connected writ petitions denoted by "etc."; complete docket list not printed in this primary rendition

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, bench and opinion allocation

Source url: [Open cited source](#)

Pdf pages: 1; 7; 18

Paragraphs: SCR 686 B-C; 692 E; 703 A and F-H

Source role: reported metadata and judicial text

2.

Topic: Historical section 80J and 1968 Rule 19A exceptions

Source url: [Open cited source](#)

Pdf pages: 24; 25; 26; 27; 28; 29; 30

Paragraphs: SCR 709 F-H through 715 B

Source role: majority judicial text

3.

Topic: High Court conflict, 1980 incorporation and effective date

Source url: [Open cited source](#)

Pdf pages: 31; 32; 33

Paragraphs: SCR 716 A-H through 718 E

Source role: majority judicial text

4.

Topic: Constitutional arguments not independently examined once the rule was held valid

Source url: [Open cited source](#)

Pdf pages: 34; 36; 37

Paragraphs: SCR 719 E-G; 721 G-H; 722 A-B

Source role: majority judicial text

5.

Topic: WP 6188 of 1980 expressly identified in judicial text

Source url: [Open cited source](#)

Pdf pages: 35

Paragraphs: SCR 720 A-B

Source role: majority judicial text

6.

Topic: Historical practice does not itself cure ultra vires rule

Source url: [Open cited source](#)

Pdf pages: 37; 38; 39; 40

Paragraphs: SCR 722 C-H through 725 D

Source role: majority judicial text

7.

Topic: Variable meaning of capital employed

Source url: [Open cited source](#)

Pdf pages: 40; 41; 42; 43; 44; 45; 46

Paragraphs: SCR 725 E-H through 731 H

Source role: majority judicial text

8.

Topic: Computation can include exclusion and the rule-making authority

Source url: [Open cited source](#)

Pdf pages: 47; 48; 49; 50; 51

Paragraphs: SCR 732 A-H through 736 F

Source role: majority judicial text

9.

Topic: Fiscal analogies, interest deduction and owners-capital policy

Source url: [Open cited source](#)

Pdf pages: 52; 53; 54; 55; 56; 57

Paragraphs: SCR 737 A-H through 742 E

Source role: majority judicial text

10.

Topic: No excessive delegation; legislative policy and parliamentary control

Source url: [Open cited source](#)

Pdf pages: 57; 58; 59; 60; 61; 62

Paragraphs: SCR 742 F-H through 747 D

Source role: majority judicial text

11.

Topic: First-day computation, ship computation and retrospective clarification upheld

Source url: [Open cited source](#)

Pdf pages: 62; 63; 64

Paragraphs: SCR 747 E-H through 749 F

Source role: majority judicial text

12.

Topic: Majority dismissal and own costs; actual dissent boundary

Source url: [Open cited source](#)

Pdf pages: 64

Paragraphs: SCR 749 F-G

Source role: majority disposition and dissent boundary

13.

Topic: Sen dissent: rival construction and rule-making limits

Source url: [Open cited source](#)

Pdf pages: 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 82; 83

Paragraphs: SCR 756 C-H through 768 H

Source role: dissent only

14.

Topic: Sen dissent accepts prospective amendment and rejects Article 14 distinction challenge

Source url: [Open cited source](#)

Pdf pages: 84; 85

Paragraphs: SCR 769 B-H; 770 A-G

Source role: dissent only

15.

Topic: Sen dissent: retrospective deprivation reasoning and proposed appeal relief

Source url: [Open cited source](#)

Pdf pages: 92; 93; 94; 95; 96; 97; 98

Paragraphs: SCR 777 A-H through 783 B

Source role: dissent only

16.

Topic: Final operative Court order: all writ petitions dismissed, own costs

Source url: [Open cited source](#)

Pdf pages: 98

Paragraphs: SCR 783 B-C

Source role: operative court order

17.

Topic: Escorts later judicial description of Lohia; its separate section 35(2) result

Source url: [Open cited source](#)

Pdf pages: 8; 22; 28; 29

Paragraphs: SCR 160 F-G; 174 C-H; 180 A-C; 181 A-B

Source role: bounded later primary check

18.

Topic: R.C. Tobacco: counsel invokes the dissent; Court upholds distinct excise measure

Source url: [Open cited source](#)

Pdf pages: 13; 14; 28; 29

Paragraphs: SCR 354 F-H; 355 A-B; 369 C-E; 370 C-D

Source role: bounded later primary check

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

P.N. Bhagwati, J. (majority); A.N. Sen, J. (dissent)

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Income-tax Rules, 1962, Rule 19A, particularly sub-rules (2), (3) and (5); Rule 19 as predecessor; Finance (No. 2) Act, 1967 (section 80J replacement of section 84 from 1 April 1968); Finance (No. 2) Act, 1980 (challenged section 80J amendment); Constitution of India, Articles 14, 19(1)(g) and 32; Income-tax Act, 1922, sections 15C and 59, and Indian Income Tax (Computation of Capital of Industrial Undertakings) Rules, 1949, as legislative history; Excess Profits Tax Act, 1940; Business Profits Tax Act, 1947; Super Profits Tax Act, 1963; Companies (Profits) Surtax Act, 1964, as fiscal-computation analogies

SPECIFIED LATER PRIMARY-SOURCE COMPARISONS AND LIMITS

1.

Title: Escorts Limited and another etc. v. Union of India and others

Asset id: S 1992 2 153 181

Date: 1992-10-22

Pages read: 1; 6; 8; 21; 22; 23; 28; 29

Finding: Ranganathan J expressly describes the retrospective section 80J controversy as settled by Lohia Machines. Escorts concerns the separate Finance (No.2) Act 1980 amendment to section 35(2), rather than a fresh construction of Rule 19A or section 80J.

Scope caution: Use as a later judicial description of Lohia, not as an independent holding about section 80J capital computation or all retrospective tax legislation.

2.

Title: R.C. Tobacco Pvt. Ltd. and another v. Union of India and another

Asset id: S 2005 3 342 370

Date: 2005-09-19

Pages read: 1; 6; 13; 14; 16; 17; 18; 19; 20; 21; 22; 23; 24; 27; 28; 29

Finding: R. Nariman for Kreesna Industries relied on A.N. Sen J's dissenting view in Lohia Machines to distinguish retrospective denial of exemption from validation. The text labels it a dissent and reports it as counsel's submission. The Court nevertheless upheld section 154 of the Finance Act 2003 and dismissed the transferred writ petitions.

Scope caution: Do not label this passage as following the Lohia dissent, overruling the Lohia majority, or construing section 80J/Rule 19A. It is an excise-exemption case and is useful for verifying that the cited Lohia reasoning is a dissenting position advanced by counsel.

MAJORITY, DISSENT AND OPERATIVE COURT ORDER

Majority

Author: P.N. Bhagwati, J.

Joining judges: Y.V. Chandrachud, C.J.; D.P. Madon, J.; M.P. Thakkar, J.

Vote count: 4

Pdf pages: 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 63; 64

Boundary: SCR 703 F-G through SCR 749 F; on shared PDF64 stop before A.N. SEN, J. at G

Dissent

Author: A.N. Sen, J.

Vote count: 1

Pdf pages: 64; 65; 66; 67; 68; 69; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 82; 83; 84; 85; 86; 87; 88; 89; 90; 91; 92; 93; 94; 95; 96; 97; 98

Boundary: SCR 749 G through SCR 783 B, ending with proposed no-costs order

Separate concurrence: None printed in this source

Operative court order

Pdf page: 98

Pin: SCR 783 B-C

Text summary: In view of the majority decision all writ petitions dismissed; parties bear their own costs

Reporter material: PDF1-17 and appearance/jurisdiction material on PDF18; not separately attributed as judicial reasons

QUESTIONS NOT DECIDED

The majority did not independently decide the Articles 14/19(1)(g) objections on the hypothesis that Rule 19A was invalid and the retrospective amendment newly withdrew vested relief.; No petitioner-specific allowance amount, assessment-year reconciliation, current capital definition or 2025 mapping is determined in this note.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 98 PDF pages; SHA-256

626c0a31e6087a76ff12d129261b679b9512351b46d85505f657181178adb1c5. Original bytes preserved.

All 98 physical pages read. Reporter material: pages 1-17 and appearances on page 18. Bhagwati J for the four-judge majority: page 18/SCR 703 F-G through page 64/SCR 749 F. A.N. Sen J dissent: page 64/SCR 749 G through page 98/SCR 783 B. Final operative Court order: page 98/SCR 783 B-C. No separate concurrence or neighbouring judgment in this rendition.

Open cited source rendition

The reporter headnotes cover both opinions. The majority is at PDF18-64; the dissent starts only at PDF64/SCR749 G, despite the running header naming Sen above the majority's concluding paragraphs. The final paragraph at PDF98 is the Court's operative order.; The complete connected writ-petition docket list and petitioner-specific assessment years are not printed. Known primary-supported numbers are retained and "etc." is not expanded from conflicting secondary headers.; The dissent proposes relief in unnamed Union and assessee appeals. The printed majority and final Court order expressly dismiss writ petitions only; a separate operative appeal schedule is not verified.; The first-page headnote incorrectly prints "Income Tax Act, 1968"; judicial text expressly identifies the Income-tax Act, 1961. Some running headers and OCR are also inaccurate. Page 34's scanned image confirms 1 April 1972 despite the OCR reading 1971.; The majority upholds retrospectivity as clarificatory because the existing rule is valid. The broader Articles 14/19 objection on the contrary premise was unnecessary to decide; Sen's contrary reasoning is dissent only.

No petitioner-specific assessment year or complete assessment-year schedule is stated in this primary report. The retrospective statutory commencement of 1 April 1972 is verified; it is not treated as proof of any individual petitioner's assessment year.

The formal primary header at PDF page 18/SCR 703 A identifies WP Nos. 4509, 4542-43 etc. of 1980. PDF page 35/SCR 720 A-B separately identifies WP 6188 of 1980. The full connected writ-petition count and docket list are not supplied. Sen's dissent refers to Union of India appeals and an assessee appeal from Madhya Pradesh without numbers; its proposed appeal relief is not the operative Court order. The verified final order expressly disposes of all writ petitions only.

STATUTORY SCOPE

No automatic mapping to current law or the Income-tax Act, 2025. The historical statutory version for the relevant year governs.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial treatment, appeals, reviews, stays and current-law status are not verified. The two expressly bounded primary checks are not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 98](#)

SHA-256: 626c0a31e6087a76ff12d129261b679b9512351b46d85505f657181178adb1c5

[bounded later primary judgment - PDF pages: 29](#)

SHA-256: 9fc93778d53bc3bcb1bb8ae2c2d3d0853e45258a0029233dee273ed3d9b4014b

[bounded later primary judgment - PDF pages: 29](#)

SHA-256: 394d5502461babea74c58e6d90d05a3c924a7d8530229a563589f09fb3524342

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