

Associated Cement Co. Ltd. v. Director of Inspection, Customs & Central Excise, New Delhi

Civil Appeal Nos. 1201-1203 of 1972 with Special Leave Petitions (Civil) Nos. 2820-2823 of 1977
[1985] 3 SCR 575 | 1985-03-29

Historical section 280ZD tax-credit certificate: special excise duty charged under the Finance Act was outside the scheme's defined duty base.

Income-tax Act, 1961: section 280ZD | Finance Act, 1965: section 80 | Central Excises and Salt Act, 1944: duty chargeability | Tax Credit Certificate (Excise Duty on Excess Clearance) Scheme, 1965: paragraphs 5.2 and 5.3

3-judge bench | V. D. Tulzapurkar, J. | V. Balakrishna Eradi, J. | R. B. Misra, J.

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

Repealed historical incentive

The holding turns on the special wording of section 280ZD(6)(b) and the 1965 certificate scheme. It should not be generalised to a different credit, rebate or excise regime.

01 FACTS OF THE CASE

Section 280ZD and the 1965 Scheme granted a certificate incentive tied to excise duty on production cleared above a base-year quantity. For cement, FY 1964-65 was the base year and FY 1965-66 was the relevant year. Cement bore basic excise duty under the Central Excises and Salt Act, while section 80 of the Finance Act, 1965 imposed a special excise duty equal to 25% of the basic amount. Associated Cement sought credit calculated on both components. The authority granted credit only on the Excise Act duty. A later supplementary claim was filed on 26 August 1967 after the first claim of 24 June 1966 had been disposed of in December 1966.

Source: [Scheme, duty components and claims: SCR pp. 577-579 / PDF pp. 3-5](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated section 280ZD(6)(b) as a special definition: duty of excise meant duty leviable under the Central Excises and Salt Act. In this context, leviable referred to the enactment creating the charge. Although Finance Act section 80 adopted Excise Act machinery for quantification and collection, those procedural links did not convert a Finance Act charge into duty chargeable under the Excise Act. The Court therefore declined to approve the contrary Madras High Court view in Seshasayee Paper & Boards. On limitation, paragraph 5.2 barred the August 1967 supplementary application, and paragraph 5.3 permitted condonation only up to sixty days. A June 1967 trade notice merely clarified existing law and did not restart limitation.

Source: [Defined-duty and limitation reasoning: SCR pp. 578-579 / PDF pp. 4-5](#)

03 JUDICIAL DECISION

The Court held that the section 280ZD certificate base did not include the special excise duty charged by the Finance Act, even though that duty was quantified and collected through Excise Act machinery. It also held the supplementary application time-barred. The civil appeals and special-leave petitions were dismissed without costs.

Source: [Holdings and dismissal: SCR pp. 578-579 / PDF pp. 4-5](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue/administration. Associated Cement obtained neither additional credit on the Finance Act special duty nor relief on its belated supplementary application. The result is confined to the historic statutory definition and scheme.

Source: [Operative outcome: SCR p. 579 / PDF p. 5](#)

05 AKHB REVIEW POINT

AKHB analysis: for any historical credit or rebate, identify the charging enactment for each levy and then apply the incentive provision's own definition; shared collection machinery does not necessarily merge distinct charges. Build a separate limitation chronology for original, revised and supplementary claims, and verify whether a circular or trade notice changes law or merely explains it. Recheck the current statute and scheme before using this archival ruling.

Source: [AKHB analysis based on the charging-source and limitation reasoning: SCR pp. 578-579 / PDF pp. 4-5](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full 5-page SCR report read. Editorial headnote on PDF pp. 1-2 was distinguished from the judicial order beginning on PDF p. 2; the report contains no numbered judicial paragraphs.

Open cited source rendition

Exact source bytes and the 5-page count match catalogue asset 1985_3_575_579.

The report covers three civil appeals and four connected special-leave petitions arising from related Delhi High Court matters; it is treated as one Supreme Court disposition, not seven separate judgments.

The judicial text prints section 230ZD once while consistently identifying the governing provision and scheme as section 280ZD; the note uses section 280ZD and records this source typographical issue here.

The catalogue's retrospective 1985INSC74 identifier is not printed in the report and is not independently certified here.

STATUTORY SCOPE

This decision applies the historical section 280ZD incentive and the 1965 Scheme to cement clearances in financial year 1965-66. The scheme, its limitation clauses and its duty definition are not represented as current law.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive later treatment and present statutory applicability have not been checked. No current citator or current-law clearance is represented.

AI DISCLOSURE

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

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. It is not legal or tax advice. Verify the original judgment, applicable statutory version and subsequent judicial treatment before relying on it. The AKBH Review Point is editorial analysis, not part of the Court's judgment.