

Distributors (Baroda) Pvt. Ltd. v. Union of India and two others

Writ Petition No. 2043 of 1981

[1985] Supp. SCR 778 | 1985-07-01

Whether the historical section 80M deduction was calculated on gross dividends received or dividend income computed under the Act, whether Cloth Traders correctly construed that section, and whether the retrospective section 80AA challenge remained necessary after that construction.

80M(1) | 80AA | 80A(1)-(2) | 80B(5)

Five-judge Constitution Bench | Y.V. Chandrachud, CJI | P.N. Bhagwati, J. | Amarendra Nath Sen, J. | D.P. Madon, J. | M.P. Thakkar, J.

Assessment years: 1970-71, 1971-72, 1972-73, 1973-74, 1974-75, 1975-76, 1976-77, 1977-78, 1978-79, 1979-80, 1980-81

Historical section 80M; prior precedent overruled, constitutional issue not reached

Cloth Traders was expressly overruled on the old section 80M deduction base. Section 80AA was treated as declaratory, making the asserted fresh retrospective-tax constitutional question unnecessary; this is not a general validation of retrospective taxes. A.N. Sen's opinion is a concurrence. Later reuse of section 80M does not establish automatic carry-over. Comprehensive later treatment, current-law applicability and 2025 mapping are not verified.

01 FACTS OF THE CASE

The first petitioner, an investment company incorporated in 1941, received dividends on domestic-company shares and paid interest on money borrowed to invest in those shares. Its director and shareholder joined as the second petitioner. For AYs 1970-71 through 1980-81, the company claimed the section 80M deduction on the full dividends received. Some assessments accepted the claim in light of Cloth Traders Ltd. v. Additional Commissioner of Income Tax, 118 ITR 243; Revenue appeals and other original assessments remained pending (SCR 787 B-H).

Section 12 of the Finance (No. 2) Act, 1980 inserted section 80AA, effective from 1 April 1968. As reproduced by the judgment, the deduction under section 80M was to be computed by reference to dividend income computed under the Act before the Chapter VI-A deduction, rather than gross dividends. The petitioners challenged the retrospective operation, alleging an increased burden reaching back almost twelve years and an unreasonable restriction under Article 19(1)(g). They did not challenge its prospective operation. The five-judge Bench first examined section 80M on its own language, because affirming the net-income interpretation would remove the asserted fresh retrospective burden (SCR 786 A-F, 787 H-788 C and 798 B-H).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court carefully separated section 80M from predecessor provisions. Self-contained exemption notifications considered in *South Indian Bank and Industrial Investment Trust* did not determine a deduction tied to income included in gross total income. Nor could the High Court interpretations of section 99(1)(iv) and section 85A simply be transplanted to differently structured language. The Court did not decide whether those predecessor interpretations were correct; although it observed that another reading of section 85A was possible, that was not the question before it (SCR 788 D-795 H).

The report reproduces section 80M as originally enacted, including its then percentage categories, and expressly records that the Finance Act, 1968 removed “received by it” from the opening of subsection (1) with effect from its commencement on 1 April 1968. Subsequent percentage amendments were not material to this interpretive issue. Sections 80A and 80B(5) put the deduction within the scheme of total income computed under the Act. The relevant dividends included in gross total income were therefore the computed dividend income, after applicable deductions including interest on borrowings used to earn it (SCR 796 A-797 D and 799 G-800 C).

The word “such” referred back to both the category and quantum of dividend income included in gross total income. The Court rejected *Cloth Traders*’ attempt to separate category from quantum. It also stressed the operative direction to deduct from that dividend income: a deduction in computing total income could not, on this text, be detached from the computed dividend component and applied to a larger gross receipt. The anti-double-taxation purpose supported relief for the amount otherwise taxable in the recipient’s hands, rather than an additional benefit beyond that amount (SCR 799 A-802 G).

Cambay Electric Supply Industrial Co. Ltd. v. CIT, [1978] 113 ITR 84, had construed the analogous section 80E computation structure before *Cloth Traders*. The Court agreed with that reasoning and identified an inconsistency that required resolution. It overruled *Cloth Traders*, rather than merely distinguishing it or relying exclusively on Parliament to displace it. The main opinion emphasised certainty and continuity but held that manifest error and conflict with another decision justified correction; the short period before legislative intervention also undermined the claimed reliance concern (SCR 802 G-807 E).

A.N. Sen J separately concurred. Fiscal precedents should be disturbed only rarely, and not merely because a larger Bench prefers another reasonably possible view. He nevertheless regarded *Cloth Traders* as fallacious, not one of two reasonable readings, and agreed entirely with the construction and dismissal. Both opinions treated section 80AA as declaratory of the position from 1 April 1968. Consequently the independent constitutional challenge to a fresh retrospective tax burden did not fall for determination (SCR 807 E-809 G).

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

03 JUDICIAL DECISION

For the historical section 80M(1), the deduction is calculated on dividend income computed in accordance with the Act and forming part of gross total income, not the full dividends received. Cloth Traders was overruled on that interpretation and Cambay Electric's analogous reasoning approved. On that construction section 80AA was declaratory, so it was unnecessary to decide the constitutional validity of a newly imposed retrospective burden. Writ Petition 2043 of 1981 was dismissed; each party was directed to bear and pay its own costs (SCR 802 E-G and 807 E-G; concurrence at 809 A-G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue / Union of India

Writ petition dismissed; each party to bear and pay its own costs

Historical section 80M meaning and overruling of Cloth Traders decided; no separate adjudication of a fresh retrospective-tax constitutional challenge

No final disposal or computation of the separate pending assessments/Revenue appeals is invented. Correctness of section 99(1)(iv) and section 85A High Court interpretations was left open.

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

05 AKHB REVIEW POINT

For a historical dividend-deduction dispute, identify the operative section 80M version, the gross-total-income computation and the actual interest or other deductions attributable to the dividends. Distinguish computation of the deductible income base from the applicable historical percentage; this judgment did not decide every percentage or later dividend regime. Its precedential importance is the express overruling of Cloth Traders and its reasoning from statutory text, not a general permission to treat all retrospective fiscal changes as valid.

Do not carry the result automatically to a later provision merely because it again bears the label section 80M. Any later re-enactment, distribution condition, deduction ceiling or altered dividend-tax regime requires its own legislative text and relevant-year analysis. No later section 80M text, current-law result or 2025 Act correspondence is certified here. The separate concurrence's reliance/certainty caution and the questions expressly left unexamined belong alongside the ratio.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, writ number and Article 32 route

Source url: [Open cited source](#)

Pdf pages: 1; 8

Paragraphs: SCR 778 A-B; 785 G-H

Source role: reported metadata

2.

Topic: Main judicial opening and scope of constitutional question

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: SCR 786 A-H

Source role: judicial text

3.

Topic: Investment-company facts, assessment years and challenged retrospective burden

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: SCR 787 B-788 C

Source role: judicial text

4.

Topic: Self-contained notifications and predecessor provisions distinguished

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13; 14; 15; 16; 17; 18

Paragraphs: SCR 788 D-795 H

Source role: judicial text

5.

Topic: Original statutory wording, scheme and deletion of received by it

Source url: [Open cited source](#)

Pdf pages: 19; 20

Paragraphs: SCR 796 A-797 D

Source role: judicial text

6.

Topic: Actual section 80AA formula and confined retrospective challenge

Source url: [Open cited source](#)

Pdf pages: 21

Paragraphs: SCR 798 B-H

Source role: judicial text

7.

Topic: Purpose, category/quantum and computed-income deduction base

Source url: [Open cited source](#)

Pdf pages: 22; 23; 24; 25

Paragraphs: SCR 799 A-802 G

Source role: judicial text

8.

Topic: Cambay Electric approved and conflict resolved

Source url: [Open cited source](#)

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

Paragraphs: SCR 802 G-807 E

Source role: judicial text

9.

Topic: Declaratory law, issue not reached, dismissal and own costs

Source url: [Open cited source](#)

Pdf pages: 30

Paragraphs: SCR 807 E-G

Source role: judicial text

10.

Topic: Separate concurrence and agreement in order

Source url: [Open cited source](#)

Pdf pages: 30; 31; 32

Paragraphs: SCR 807 H-809 G

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

99(1)(iv) (historical predecessor; correctness of earlier interpretations not decided); 85A (historical predecessor; correctness of earlier interpretation not decided); 80E(1) (Cambay Electric structural analogy); 280D (within the historical gross-total-income definition)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

P.N. Bhagwati, J. (main opinion); Amarendra Nath Sen, J. (separate concurrence)

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Constitution of India, Articles 32 and 19(1)(g); Finance (No. 2) Act, 1980, section 12 (insertion of section 80AA with effect from 1 April 1968); Finance Act, 1968 (deletion of "received by it" in the opening of section 80M(1), effective 1 April 1968); Indian Income-tax Act, 1922 and the 1933/Travancore-Cochin notifications (historical and cited-case context, not governing assessments)

DISTINCT PROCEEDINGS AND THEIR DISPOSITION

1.

Case numbers: Writ Petition No. 2043 of 1981

Route: Original jurisdiction under Article 32

Disposition: Dismissed

Costs: Each party to bear and pay its own costs

SEPARATE JUDICIAL OPINIONS AND POSITIONS

1.

Author: P.N. Bhagwati, J.

Joined by: Y.V. Chandrachud, CJI; D.P. Madon, J.; M.P. Thakkar, J.

Position: Main opinion; Cloth Traders overruled; net statutory dividend-income base

Pdf pages: 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30

2.

Author: Amarendra Nath Sen, J.

Position: Concurs in interpretation, reasons and order; adds caution on unsettling fiscal precedents merely because another view appears preferable

Pdf pages: 30; 31; 32

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 32 PDF pages; SHA-256

0ced495513c2a00720eb8319a902632041033ceef403303adbe5475b85d6cc1. Original bytes preserved.

Complete unnumbered judicial text begins at physical page 9/SCR 786 A (Bhagwati J). Main opinion ends with dismissal and own-costs order at page 30/SCR 807 G. A.N. Sen J concurrence begins on that same page at 807 H and ends page 32/SCR 809 G, agreeing with the proposed order. Headnote and report metadata are pages 1-8. No adjacent judgment.

Open cited source rendition

Supplement designation verified from printed SCR running headers; the source asset's numeric volume label is not substituted for the printed citation.

The judicial body, not the numbered editorial headnote, supplies the ratio. Judicial paragraphs are unnumbered; the note uses SCR and physical-page pins.; The main opinion occupies SCR 786-807; A.N. Sen's separate concurrence begins at SCR 807 H. It is not a dissent.; The printed discussion at SCR 806 D-E first refers to no earlier High Court decision, then immediately identifies the earlier Gujarat High Court decision. This internal wording inconsistency is not used to claim that no High Court authority existed.; The source reproduces both original section 80M percentage categories and later interpretive language; the holding concerns the deduction base and does not certify one percentage across all years.; The constitutional validity of a new retrospective tax burden and the correctness of predecessor-section interpretations were not independently decided.

AYs 1970-71 through 1980-81 expressly identified at SCR 787 D; some assessments and Revenue appeals were pending, but this judgment disposes only of the writ petition.

STATUTORY SCOPE

No automatic current-law application or Income-tax Act, 2025 mapping. Identify the governing period and operative statutory text independently.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, reviews, stays, reversals and judicial treatment have not been comprehensively checked. Any bounded later statutory check is separately identified; this is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 32](#)

SHA-256: 0ced495513c2a00720eb8319a902632041033ceef403303adbe5475b85d6cc1

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.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.