

Commissioner of Income Tax, Kanpur etc. v. M/s. Mother India Refrigeration Industries (P) Ltd. etc.

Civil Appeal No. 1570 of 1973 / Civil Appeal No. 1571 of 1973 / Tax Reference Case No. 15 of 1983

[1985] Supp (2) SCR 556 | 1985-08-14

Whether brought-forward business losses can be deducted before current-year depreciation under the corresponding historical provisions of the 1922 and 1961 Acts.

32(1) | 32(2) | 72(1) | 72(2) | 257

Three-judge bench | V.D. Tulzapurkar, J. | Sabyasachi Mukharji, J. | Ranganath Misra, J.

Assessment years: 1951-52, 1952-53, 1969-70

Current versus carried-forward depreciation; mixed statutory proceedings

Current depreciation comes before carried-forward business loss; the latter retains its statutory priority over carried-forward depreciation. The two 1950s appeals apply the 1922 Act, while the AY 1969-70 direct reference decides the 1961 Act issue. Seshasayee's later investment-allowance judgment contains an overbroad description that is not substituted for these reasons. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

In the two civil appeals, the assessee sought to use business losses carried from AY 1950-51 before current depreciation in AYs 1951-52 and 1952-53. The officer gave current depreciation priority; the first appeal reversed that order, the Tribunal restored it, and the Allahabad High Court accepted the assessee's view. Revenue appealed (unnumbered facts, SCR 560-561).

The separate Tax Reference Case No.15/1983 concerned AY 1969-70 under the 1961 Act. A revised return likewise sought earlier business-loss set-off before current depreciation. The Tribunal preferred the officer's sequence and referred the legal question directly under section 257 because High Courts disagreed. The Court decided both statutory settings together (SCR 561-562).

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

02 DISCUSSION BY THE HON'BLE COURT

Current depreciation is part of computing the year's net business profits. Only after that computation does the question of applying carried-forward allowances and losses arise. The Court examined whether the deeming provision displaced that ordering and held that it did not (SCR 565–566).

The fiction makes unabsorbed depreciation partake of the character of depreciation in the following year, including its historical availability against other income heads. But the fiction is bounded by its purpose and the express statutory qualification. The loss-priority provision gives brought-forward business losses preference over brought-forward depreciation; it does not give them preference over current depreciation. Treating all depreciation as an indivisible amount for that different priority question would improperly extend the fiction (SCR 566–567).

The Court held the material 1961 Act provisions substantially equivalent for the issue. It distinguished the point decided in *Jaipuria China Clay Mines* and approved the High Court approaches that deducted current depreciation first. Its reasoning therefore supported the Revenue's answer in both the older appeals and the direct 1961 Act reference (SCR 567–568).

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

03 JUDICIAL DECISION

The Revenue's two civil appeals were allowed: the Allahabad High Court judgment was set aside and the Tribunal restored. The direct tax reference was answered against the assessee: current depreciation must first be deducted before brought-forward business losses. The assessees were directed to pay the Department's costs of the appeals and reference (SCR 568).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue in the two appeals and the section 257 reference

Two civil appeals allowed; Tribunal restored; tax reference answered against the assessee; costs to the Department

Final interpretation of the current-depreciation priority issue under both historical Acts

Does not reverse the separate statutory preference of brought-forward business loss over brought-forward depreciation. The 1950s appeal facts are governed by the 1922 Act; the 1961 Act holding comes from the AY 1969-70 reference. Current rates, carry-forward restrictions and all later amendments are unverified.

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

05 AKHB REVIEW POINT

Keep current-year depreciation separate from brought-forward depreciation when applying the statutory sequence. The fiction giving the latter a depreciation character does not erase an express preference for carried-forward business losses over that brought-forward component. Confirm both the base-year allowance and the relevant year's provision before calculating the available balances.

The later Seshasayee judgment, fully read for this batch, concerns investment allowance and cannot safely be used to replace this distinction with its paragraph 21 shorthand. That comparison records a source-description discrepancy, not a declared overruling. No present-law set-off table or automatic carryover to the Income-tax Act, 2025 is certified.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Appeal groups

1.

Appeals: Civil Appeal Nos.1570–1571/1973

Governing law: 1922 Act; AYs 1951-52 and 1952-53

Disposition: Revenue appeals allowed; Tribunal restored

2.

Appeals: Tax Reference Case No.15/1983

Governing law: 1961 Act; AY 1969-70

Disposition: Current depreciation first; answer against assessee

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Bench, date, author and three proceedings

Source url: [Open cited source](#)

Pdf pages: 1; 4

Paragraphs: Cover; proceeding list and author line

Source role: reported metadata and judicial text

2.

Topic: Separate appeals and reference facts

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: Unnumbered judicial facts, SCR 560–562

Source role: judicial text

3.

Topic: Both statutory regimes and parties' theories

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Paragraphs: Unnumbered text, SCR 562–565

Source role: judicial text

4.

Topic: Current depreciation and bounded fiction

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: Unnumbered reasons, SCR 565–567

Source role: judicial text

5.

Topic: Separate loss priority and final order

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: Unnumbered reasons and disposition, SCR 566–568

Source role: judicial text

6.

Topic: Later source-description discrepancy

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16; 17; 18; 19

Paragraphs: Seshasayee paragraphs 19–22

Source role: bounded later comparison

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

32(1) / 32(2) / 72(2): Current depreciation and carried-forward business-loss ordering in the 1961 Act reference

257: Direct Supreme Court reference because of conflicting High Court views

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

V.D. Tulzapurkar, J.

OTHER LEGAL CONTEXT

Indian Income-tax Act, 1922: section 10(2)(vi), proviso (b), and section 24(2), proviso (b), govern the two older civil appeals.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 13 PDF pages; SHA-256

7f2aaf68f6508f73a4589cb16313df09c62151f2499e69f0b90aca55120d9e5e. Original bytes preserved.

Unnumbered judicial text begins at the end of physical page 4 and runs through page 13 (SCR 559–568); headnote and report material on pages 1–4 distinguished. No adjacent judgment.

Open cited source rendition

The two civil appeals concern AYs 1951-52 and 1952-53 under the 1922 Act. The section 257 tax reference concerns AY 1969-70 under the 1961 Act; no unnamed reference taxpayer identity is invented.

Included because the common judgment expressly decides a direct section 257 reference under the 1961 Act, alongside two 1922 Act appeals.

The two civil appeals are 1922 Act matters; only the separate 1969-70 reference directly applies the 1961 Act. They must not be assigned one common statutory year.; The narrative uses inconsistent 1952-53 income figures (Rs.64,332 and Rs.64,232), and the stated balance calculation also fails to reconcile. The note does not calculate or silently correct the amounts.; The judgment is unnumbered in this rendition; exact physical and printed SCR pages are used instead of invented paragraph numbers.; The report contains OCR variants of judge names and citations; visible cover and author line control the identity.; The bounded Seshasayee comparison is specifically about its description of this earlier ordering, not a comprehensive subsequent-treatment search or an assertion that either decision is overruled.

STATUTORY SCOPE

Current statutory equivalence and 2025 Act applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive later judicial/statutory treatment remains unverified. Any actually read comparison is expressly bounded and separately sourced.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 13](#)

SHA-256: 7f2aaf68f6508f73a4589cb16313df09c62151f2499e69f0b90aca55120d9e5e

[reported judgment - PDF pages: 19](#)

SHA-256: 62daf3555c31edb8f0933d2df4276cef9993d0365a49c602bf12745f7e7dfe67

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