

Shree Sajjan Mills Ltd. v. Commissioner of Income Tax, M.P., Bhopal and another

Civil Appeal No. 4221 (NT) of 1984 / Civil Appeal No. 4222 (NT) of 1984

[1985] Supp. 3 SCR 593 | 1985-10-08

Can actuarially estimated gratuity liability escape section 40A(7) and be deducted under general business-computation provisions merely because no corresponding provision was made in the accounts?

28 | 36(1)(v) | 37(1) | 40A(1) | 40A(7)(a), (b)(i) and historical (b)(ii) | 155(13) (historical rectification context) | 256(1) (reference procedure)

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

Assessment years: 1974-75, 1973-74

Gratuity-specific restriction, retrospective commencement and exceptions

Section 40A(7) was inserted by Finance Act 1975 with retrospective effect from 1 April 1973. This judgment rejects bypassing it through an unbooked actuarial gratuity claim. It preserves the subsection's approved-fund/payable-gratuity exceptions and the conditional AY 1973-74 to 1975-76 transition, not a blanket cash-only rule or a prohibition on all estimated liabilities. The source has disclosed amount/question-wording slips. The later Vanaz remand does not establish pre-1973 commencement. Comprehensive later treatment, present-law interaction and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The company's two appeals concerned AYs 1974-75 and 1973-74. For AY 1974-75, its actuarial gratuity liability for periods ending 31 March 1972, 1973 and 1974 totalled Rs.64,31,286; provisions of Rs.45,93,559 had been made, leaving Rs.18,37,727 unprovided. The Income-tax Officer allowed Rs.2,65,872 actually paid and disallowed the rest for non-compliance with section 40A(7). The Tribunal allowed the remaining Rs.15,71,855 because no book provision had been made for it. The High Court answered the Revenue's questions against the assessee (physical pages 6-8).

For AY 1973-74, after the Payment of Gratuity Act came into force on 16 September 1972, the company obtained an actuarial valuation. Pending that valuation, it provided Rs.20 lakh in its accounts, added that amount back in its tax computation and claimed the actuarial total of Rs.48,59,431. The Income-tax Officer allowed only Rs.24,366 actually paid. The Appellate Assistant Commissioner allowed Rs.30,25,662; the Tribunal rejected the Rs.20 lakh book provision but allowed the unprovided Rs.28,59,431 under section 37(1). The High Court rejected this separation (physical pages 8-11).

The assessee argued that section 40A(7) disallowed only an accounting provision, leaving an unrecorded actuarial claim deductible under section 37 or general section 28 principles. It relied on accounting terminology, the absence of a duty to book such a provision, and the rule that accounting entries do not conclusively determine tax deductibility (physical pages 11-16).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court separated the underlying obligation from the method chosen to meet it. In its analysis, gratuity normally became payable on retirement or termination; merely reserving an advance sum for a future contingency was different from an actual present liability. It nevertheless expressly preserved the pre-section-40A(7) Metal Box position: a sufficiently ascertainable, properly discounted present-value provision could be deductible under general computation principles. Contributions to an approved gratuity fund and gratuity actually paid or becoming payable had their own treatment. The judgment therefore does not condemn all estimated liabilities under all circumstances (physical pages 17-19).

Section 40A(1) gives the section overriding operation in business-income computation. The material change was insertion of subsection (7) by the Finance Act, 1975 retrospectively from 1 April 1973. Section 40A itself had commenced on 1 April 1968. The subsection's ordinary meaning of provision, reinforced by the words covering any name, could not be reduced to the label or absence of an entry in the books. Allowing an unprovided estimate while disallowing an otherwise identical booked estimate would defeat the statutory restriction (physical pages 9, 16 and 20-22).

The restriction was expressly subject to exceptions. Clause (b)(i) covered a provision for a contribution towards an approved gratuity fund or for gratuity that had become payable during the previous year. Historical clause (b)(ii) covered provisions for previous years relevant to AYs commencing on or after 1 April 1973 but before 1 April 1976, limited to the admissible amount, only if all three specified conditions were met: actuarial valuation of ascertainable liability; creation of an approved gratuity fund for the exclusive benefit of its employees under an irrevocable trust, with application for approval before 1 January 1976; and the prescribed funding. A contribution of at least 50 per cent of the admissible amount (or of that amount as reduced by gratuity already paid out of the provision before creation of the approved fund) was required before 1 April 1976, and the balance of the applicable amount before 1 April 1977. These historical deadlines are not present-day instructions (physical pages 10-11 and 20).

Kedarnath Jute concerned accrued sales-tax liability, a different situation. Earlier gratuity decisions for periods preceding section 40A(7) could not bypass its operative conditions. Strict construction of fiscal legislation did not exclude reasonable construction that gave effect to the provision's statutory purpose. The Court approved the Calcutta decisions rejecting the attempted general-principles deduction (physical pages 21-22).

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

03 JUDICIAL DECISION

The High Court correctly answered the referred questions in the negative. Both assessee appeals were dismissed with costs. The claimed unprovided actuarial balances did not escape section 40A(7) through sections 28 or 37. There was no remand or new quantified allowance by the Supreme Court (physical page 22/SCR 614 G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Both appeals dismissed with costs; adverse reference answers upheld

Final reasoned merits decision on the statutory disallowance and attempted no-book-provision distinction

Gratuity and the historical section 40A(7) regime; actual payment, approved-fund and payable-gratuity exceptions must be retained.

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

05 AKHB REVIEW POINT

Test the nature and timing of the gratuity claim against the applicable subsection before relying on actuarial valuation or absence of a ledger entry. A sound valuation does not by itself overcome a specific statutory disallowance. Conversely, this judgment must not be restated as “only cash payments are deductible” or “all provisions are prohibited”: the exceptions and the historical pre-1 April 1973 position are integral to its reasoning.

Bounded later primary check: Rotork Controls, paragraph 14 at physical pages 19-22, expressly explains that section 40A(7) altered the gratuity position from 1 April 1973 while the warranty claims there had no equivalent statutory bar. In the separate Vanaz Engineering case, counsel agreed to disposal on the same terms as D.V. Bapat; the Court remanded the compliance questions in light of Shree Sajjan Mills rather than finally granting a deduction (physical pages 5-6). Vanaz’s report states AY 1971-72 yet invokes the later provision without resolving that temporal mismatch. Do not use that remand to move section 40A(7)’s commencement back. Later treatment beyond these identified checks, current-law interaction and 2025 mapping remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, both appeals and assessment-year attribution

Source url: [Open cited source](#)

Pdf pages: 1; 6

Paragraphs: SCR 593 A-B; 598 C-H

Source role: reported metadata and judicial text

2.

Topic: Separate claims, payments and reference questions

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: SCR 598 F-H through 601 F

Source role: judicial text

3.

Topic: Historical statute and cumulative transitional conditions

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: SCR 601 F-H through 603 A

Source role: judicial text

4.

Topic: Overriding section and precise 1975/1973 commencement

Source url: [Open cited source](#)

Pdf pages: 16

Paragraphs: SCR 608 B-G

Source role: judicial text

5.

Topic: Contingent liability and pre-amendment five-part position

Source url: [Open cited source](#)

Pdf pages: 17; 18; 19

Paragraphs: SCR 609 A-H through 611 C

Source role: judicial text

6.

Topic: Ordinary meaning, exceptions, no-book-entry argument

Source url: [Open cited source](#)

Pdf pages: 20; 21

Paragraphs: SCR 612 B-H; 613 A-H

Source role: judicial text

7.

Topic: Construction, dispositive answer and costs

Source url: [Open cited source](#)

Pdf pages: 22

Paragraphs: SCR 614 A-G

Source role: judicial text

8.

Topic: Bounded later explanation distinguishing warranty provisions

Source url: [Open cited source](#)

Pdf pages: 19; 20; 21; 22

Paragraphs: Paragraph 14/SCR 1170 E through 1173 D

Source role: bounded later primary check

9.

Topic: Bounded later application in separate remand and temporal caution

Source url: [Open cited source](#)

Pdf pages: 3; 5; 6

Paragraphs: SCR 953 F; 955 E-H; 956 A

Source role: bounded later primary check

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sabyasachi Mukharji, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Finance Act, 1968: section 40A effective from 1 April 1968; Finance Act, 1975: section 40A(7) inserted retrospectively with effect from 1 April 1973; Payment of Gratuity Act, 1972, effective from 16 September 1972 (background liability)

SPECIFIED LATER PRIMARY-SOURCE COMPARISONS AND LIMITS

1.

Title: M/s. Rotork Controls India (P) Ltd. v. Commissioner of Income Tax

Asset id: 2009_8_1152_1179

Date: 2009-05-12

Pages read: 1; 19; 20; 21; 22

Finding: Paragraph 14 explains the Finance Act 1975 insertion with effect from 1 April 1973 and distinguishes warranty provisions where no equivalent statutory restriction applied.

2.

Title: Commissioner of Income-tax v. Vanaz Engineering (P) Ltd.

Asset id: 1986_2_951_956

Date: 1986-05-02

Pages read: 1; 2; 3; 4; 5; 6

Finding: Separate case remanded for section 40A(7)(b)(ii) second/third-condition examination in light of Shree Sajjan Mills; no final deduction allowed. Express AY 1971-72/operative provision mismatch remains unresolved and does not shift commencement.

SOURCE & VERIFICATION

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

Identified source rendition: 22 PDF pages; SHA-256

1b64b142e242ad7ea6a8a8b3335216266b6acfee662a63ba08a919a539a4002c. Original bytes preserved.

Judicial text begins physical page 6/SCR 598 E and ends physical page 22/SCR 614 G. All 22 pages read; headnotes and report metadata on pages 1-6 distinguished. Both assessment-year appeals and all quoted provisions and submissions read. No neighbouring judgment.

[Open cited source rendition](#)

Section 40A(7) was inserted by the Finance Act, 1975 retrospectively from 1 April 1973 (physical page 16), not enacted in 1973. The shorthand at page 18 and in the headnote must not erase this distinction. Section 40A itself was inserted by the Finance Act, 1968 with effect from 1 April 1968 (page 9).; For AY 1973-74 the coherent actuarial total is Rs.48,59,431 on pages 8-9, including the referred question. One line at page 8 prints Rs.49,59,431. This isolated inconsistency is not silently treated as a different total.; The AY 1974-75 first referred question on page 7 refers to Rs.28,59,431 and says provision was made; the surrounding judicial facts instead identify Rs.18,37,727 unprovided and Rs.15,71,855 allowed by the Tribunal. The note follows the narrative while disclosing the inconsistent question wording.; The section 40A(7)(b)(ii) transition applied to the stated AY window and contained three cumulative conditions and historical deadlines. No blanket deduction or current deadline is inferred.; Vanaz Engineering is a separate later remand, not part of this appeal group or a new independent rule in this note. Its stated AY 1971-72 and invocation of section 40A(7) are in tension; no earlier commencement is inferred.; The wider treatment of warranty or other provisions is not decided here. Rotork is a bounded later comparison only; subsequent statutory changes and present-day provisions have not been comprehensively checked.

CA 4221 concerns AY 1974-75, accounting year ending 31 March 1974; CA 4222 concerns AY 1973-74, accounting year ending 31 March 1973.

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 expressly identified bounded primary checks are not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 22](#)

SHA-256: 1b64b142e242ad7ea6a8a8b3335216266b6acfee662a63ba08a919a539a4002c

[bounded later primary judgment - PDF pages: 28](#)

SHA-256: 22ad5e1722b575ddef2fbd10888e00193e14332313d859af35e134e9c91cfc44

[bounded later primary judgment - PDF pages: 6](#)

SHA-256: e1fbbc14c7d5bc07951a0b5ddcfdeccc4dcd0394d12ad3756e7db7b2a343584

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