

Commissioner of Income-tax, Bombay v. Vanaz Engineering (P) Ltd., Bombay

Civil Appeal No. 4253 of 1983 — Single special-leave appeal concerning the gratuity deduction reference; D. V. Bapat and Shree Sajjan Mills are cited authorities, not connected dockets.

[1986] 2 SCR 951 | 1986-05-02

The Revenue obtained a remand to examine the remaining statutory gratuity conditions; the Supreme Court did not finally allow or disallow the whole provision.

Income-tax Act, 1961 | 1961 Act: 28 | 1961 Act: 29 | 1961 Act: 37(1) | 1961 Act: 40A(7)(b)(ii) (historical text invoked in remand)

3 Judges | R. S. Pathak | R. B. Misra | G. L. Oza

01 FACTS OF THE CASE

The whole gratuity provision was sent back for statutory scrutiny. Vanaz introduced its first gratuity scheme from 1 July 1970 and, on an actuarial valuation, charged Rs. 2,11,305 to its calendar-1970 accounts. For the expressly reported assessment year 1971-72, the officer allowed only Rs. 27,249, subtracting Rs. 1,84,056 attributed to the liability at the preceding year-end. The Appellate Assistant Commissioner and Tribunal allowed the entire charge. The Revenue sought a reference on deduction under sections 28 read with 29 or 37(1).

Source: [SCR 953-954; target report and identified opinion only.](#)

02 DISCUSSION BY THE HON'BLE COURT

Pathak J identified conflicting descriptions of whether the Tribunal had made or refused a reference and when the High Court rejected the application. Even on the refusal version, a question of law arose. With counsel agreeing to disposal in the terms of D. V. Bapat, the Court considered the Revenue's reliance on section 40A(7)(b)(ii). Following the construction in Shree Sajjan Mills, it required the High Court to examine compliance. The parties accepted satisfaction of the first condition; satisfaction of the second and third remained to be determined.

Source: [SCR 954-955; target report and identified opinion only.](#)

03 JUDICIAL DECISION

The High Court's judgment was set aside and the matter remanded for fresh consideration in light of those observations. The direction does not establish that an actuarial provision alone qualifies for deduction, nor does it finally establish failure of the remaining conditions.

Source: [SCR 955-956; target report and identified opinion only.](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal allowed; case remanded to the High Court. Ultimate deduction entitlement remained open on the specified statutory inquiry. No order as to costs.

Source: [SCR 956-956; target report and identified opinion only.](#)

05 AKHB REVIEW POINT

Preserve the assessment year and section as printed. The later statutory compilation records section 40A(7)'s retrospective insertion from 1 April 1973, creating an apparent tension with the reported 1971-72 year. This note records the remand without inventing a corrected year or resolving that tension. Obtain the underlying assessment and reference record before applying the transitional conditions.

Source: [SCR 954-956; target report and identified opinion only; DOR-hosted Finance Act 2011 compilation, physical 304, section 40A\(7\), footnote 53: retrospective insertion from 1 April 1973 and replacement from 1 April 2000; supports the later-history observation, not part of the 1986 holding.](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: I.T. Reference No. 485 of 1976

Relationship: Bombay High Court order described as 9 March 1979; the judgment expressly records inconsistent reference-history dates and descriptions.

SOURCE & VERIFICATION

Original reported Supreme Court judgment

6-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All 6 physical text and image pages genuinely read. Entire PDF is the target report, including headnote and any separate opinion; cited/quoted cases are authorities, not additional primary targets. The headnote prints section 22; the actual reference question on SCR 954 prints sections 28, 29 and 37(1). The judgment expressly flags inconsistent reference chronology involving 9 March 1979 and 23 April 1980. Its printed AY 1971-72 and invocation of section 40A(7)(b)(ii) are retained without harmonisation. All six physical pages form this judgment. Shree Sajjan Mills and D. V. Bapat are antecedent authorities; no post-remand result is verified.

Open cited source rendition

The headnote prints section 22; the actual reference question on SCR 954 prints sections 28, 29 and 37(1).

The judgment expressly flags inconsistent reference chronology involving 9 March 1979 and 23 April 1980. Its printed AY 1971-72 and invocation of section 40A(7)(b)(ii) are retained without harmonisation.

All six physical pages form this judgment. Shree Sajjan Mills and D. V. Bapat are antecedent authorities; no post-remand result is verified.

STATUTORY SCOPE

Income-tax Act, 1961; 28, 29, 37(1), 40A(7)(b)(ii) (historical text invoked in remand), Constitution of India, Article 136

The retained 2011 compilation's section 40A(7) excludes gratuity provisions subject to approved-fund/payable-gratuity exceptions; its footnote records insertion with retrospective effect from 1 April 1973 and substitution from 1 April 2000. It does not reproduce the original three transitional conditions. Sections 43B(a)–(b) and the payment proviso were also read; no current deduction is certified.

Sections 29(1)(d) and 29(2) retain specific gratuity-provision restrictions and exceptions; actuarial measurement alone does not settle deductibility.

Historical operative law is distinct from the cited later versions. Complete repeal/savings, tax-year applicability, unexamined rules and comprehensive subsequent judicial treatment remain unverified.

Other provisions addressed: Constitution of India, Article 136

LATER TREATMENT

Source checked 2026-10-08. No comprehensive subsequent judicial-history review was performed for this note; unchecked treatment must not be read as absence of later treatment.

Named authorities discussed within the judgment are antecedent authorities. The separately sourced legislative developments are statutory comparisons, not a later-judgment certification.

Primary holding and expressly identified bounded statutory readings only.

IDENTIFIED SOURCE LINKS

[Income-tax Act,1961: identified2011 compilation](#)

DOR-hosted Taxmann compilation as amended by Finance Act2011 The retained 2011 compilation's section 40A(7) excludes gratuity provisions subject to approved-fund/payable-gratuity exceptions; its footnote records insertion with retrospective effect from 1 April 1973 and substitution from 1 April 2000. It does not reproduce the original three transitional conditions. Sections 43B(a)–(b) and the payment proviso were also read; no current deduction is certified. Identified historical2011 compilation. Not a current consolidated statute, full-Act, image or complete transaction-applicability review. Text pages read: 42, 304, 322–323.

[Income-tax Act,2025: bounded provisions](#)

Official compilation as amended by Finance Act2026 Lines2278–2281 and 2299–2321, physical pages 58–59. Capture hashes identify exact returned text-output bytes, not the remotePDF. No full-Act, image, complete transition or comprehensive subsequent-history verification.

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