

Patnaik & Co. Ltd. v. Commissioner of Income Tax, Orissa

Civil Appeal No. 1359 (NT) of 1974

[1986] 3 SCR 207 | 1986-07-16

Whether the Rs.53,650 loss on sale of Government Loan subscriptions was a revenue or capital loss, and whether the High Court could replace the Tribunal's factual findings when the referred question did not challenge their validity.

Two-judge bench | R.S. Pathak, J. | Sabyasachi Mukharji, J.

Assessment years: 1963-64

Fact-bound business loss and historical reference jurisdiction

Patnaik allows this AY 1963-64 bond-sale loss on the Tribunal's established commercial facts and absence of an enduring capital advantage. It also requires a specifically framed reference challenge before those factual findings can be displaced. The headnote's future-years wording and Supreme Court Rule reference are not additional judicial holdings. No current-law or 2025-Act mapping is supplied; comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

The company dealt in automobiles and spare motor parts. For AY 1963-64, with accounts ending 31 March 1963, it claimed Rs.53,650 lost on disposal of its subscription to the Orissa Government Floated Loan 1972 as a revenue loss deductible against that year's profits. The Income-tax Officer and first appellate authority rejected the claim, but the Tribunal's two members wrote concurrent orders accepting its business connection. On Revenue's reference, the High Court substituted its own factual view and treated the loss as capital (physical pages 3-4; SCR 209F-210D).

The Tribunal's statement of case recorded an understanding that subscribing would secure preferential vehicle orders and advances up to half the orders' value. Government advances of Rs.18,37,062 were received, a circular directed departments to buy vehicles from the company, sales increased and the company saved Rs.45,000 in bank interest. It deposited Rs.5 lakh on 4 September 1961 following a board resolution, with shareholder ratification on 31 December 1961. The Tribunal linked the sequence and proximity of subscription and orders to furthering sales. These were accepted findings, not merely counsel's assertions (physical page 5; SCR 211D-H).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court held that the High Court had seriously erred in reassessing the evidence. The Tribunal is the final fact-finding authority; its findings cannot be displaced on reference merely because the High Court prefers another factual inference. Even a no-evidence or legal-misdirection challenge must be specifically raised by a referred question attacking the validity of the findings. S.P. Jain was distinguishable because its referred questions did make that challenge. Here the question assumed the Tribunal's factual matrix, so the High Court's contrary factual findings had to be vacated (physical pages 4–5; SCR 210E–211C).

Instead of remitting the reference for another answer, the Supreme Court answered it itself on the Tribunal's facts to end litigation pending for over twenty years. This was an actual disposal on the merits as well as a ruling on reference jurisdiction. The judicial text does not expressly cite the Supreme Court Rule mentioned in the editorial headnote (physical page 5; SCR 211C–D).

On the established facts, the investment was made for commercial expediency in carrying on the business and boosting sales. The Court expressly agreed with the Tribunal that the resulting loss was revenue. It rejected the High Court's enduring-benefit characterisation: the material showed a decision to buy specified vehicles, and no reason for the company to hold the loan investment indefinitely. In these circumstances no capital asset or enduring advantage was brought into the business. The Court also referred approvingly to the Orissa and Madras decisions allowing bond-sale losses where the purchases furthered Government business or preserved business goodwill. That commercial connection and the actual character of the advantage are integral to the reasoning (physical page 6; SCR 212A–H).

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

03 JUDICIAL DECISION

The appeal was allowed, the High Court's judgment was set aside, and the referred capital-or-revenue question was answered in favour of the assessee and against Revenue because the loss was revenue. The assessee was entitled to the costs of this appeal. The Supreme Court disposed of the reference itself; it did not order a fresh factual inquiry or remand (physical page 7; SCR 213A–B).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal allowed; High Court judgment set aside; reference answered for the assessee; assessee awarded costs of this appeal

Final substantive revenue-loss holding and reasoned reference-jurisdiction holding

Rs.53,650 was the loss in issue for AY 1963-64. No independent future-year carry-forward order, quantified tax refund or universal deduction for investments is made.

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

05 AKHB REVIEW POINT

Retain the contemporaneous commercial link between the subscription and the business orders: board records, procurement correspondence, advance receipts and timing were central here. A business motive should not be detached from the Court's finding that this arrangement created no enduring capital advantage. Separately, a reference challenging the legal character of a transaction is not itself a specifically framed challenge to the Tribunal's findings.

The body places the deduction in AY 1963-64; the headnote's reference to future years should not be used to invent a carry-forward holding. The source identifies no numbered income-tax section. AY 1963-64 falls after the 1961 Act's commencement on 1 April 1962. A bounded check of sections 1 and 297 corroborates that historical setting; it does not supply a numbered income-tax provision for the judgment or an automatic correspondence with later law. Both the reference procedure and the applicable substantive provisions must be checked before use in another period.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal number and judicial opening

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered judicial text; 207 and 209D-H

Source role: reported metadata and judicial text

2.

Topic: Reference question and limits on factual reappraisal

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered judicial text; 210C-211C

Source role: judicial text

3.

Topic: Direct reference disposal and commercial facts

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: Unnumbered judicial text; 211C-H

Source role: judicial text

4.

Topic: Substantive loss characterisation

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Unnumbered judicial text; 212A–H

Source role: judicial text

5.

Topic: Full operative relief and appeal costs

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Unnumbered judicial text; 213A–B

Source role: judicial text

6.

Topic: Editorial commencement/repeal check only

Source url: [Open cited source](#)

Pdf pages: 42; 1004; 1005; 1006

Source role: bounded statutory check

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R.S. Pathak, J.

OTHER STATUTORY CONTEXT

Supreme Court Rules, 1966, Order XLVII Rule 6 appears in the editorial headnote only; not expressly invoked in the judicial reasons.; Sections 1(3) and 297 of the 1961 Act independently checked solely for editorial commencement/scope assessment, not adjudicated in this case.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

ACCOUNTING PERIOD IDENTIFIED IN THE JUDGMENT

Year ended 31 March 1963

SCOPE OF THE STATUTORY PROVISIONS ACTUALLY IDENTIFIED

The judgment identifies the Income-tax Act and operative AY 1963-64 but does not identify a numbered charging, deduction or reference provision. No section 28, 37 or 256 crosswalk is inferred.

SOURCE & VERIFICATION

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

Identified source rendition: 7 PDF pages; SHA-256

293f158211e988be1660e0f579e18a4e3032fd6dcb1c7680777ae28eb2f61f81. Original bytes preserved.

Judicial text starts on physical page 3 and ends on physical page 7. Earlier editorial headnotes, report metadata and terminal reporter summary distinguished. No neighbouring judgment included.

[Open cited source rendition](#)

The physical page 1 headnote refers to profits for future years; the judicial opening on physical page 3 states profits for the year. The note follows the judicial text and makes no carry-forward holding.; Order XLVII Rule 6 of the Supreme Court Rules, 1966 appears only in the headnote. The Court's actual decision to answer the reference directly is preserved without claiming express judicial interpretation of that Rule.; The judgment does not give numbered income-tax provisions. Operative AY 1963-64, not cited-authority years or pre-commencement subscription date, supports scope inclusion.; The reporter's older-case citations contain minor printed/OCR variants; no unverified parallel-citation corrections are introduced.

STATUTORY SCOPE

No current-law certification or automatic mapping to the Income-tax Act, 2025. Historical provisions and narrowly identified later statutory checks only.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial treatment, appeals, reviews, stays and reversals have not been verified. Identified bounded statutory checks do not amount to a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 7](#)

SHA-256: 293f158211e988be1660e0f579e18a4e3032fd6dcb1c7680777ae28eb2f61f81

[official department hosted historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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