

Petron Engineering Construction Pvt. Ltd. & Another v. Central Board of Direct Taxes & Others

Civil Appeal No. 3531 of 1988

[1988] Supp. 3 SCR 1058 | 1988-12-13

Historical section 80-O: overseas project work and foreign-exchange earnings did not cure contracts and payment through an Indian company that was not a foreign enterprise.

Income-tax Act, 1961: section 80-O as considered for AY 1980-81; section 85-C discussed as legislative background

2-judge bench | Murari Mohon Dutt, J. | S. Natarajan, J.

Assessment years: 1980-81

Historical section 80-O

This decision applies the version of section 80-O considered for AY 1980-81. Its discussion of liberal construction and the deduction scheme requires independent checking before any present-day reliance.

01 FACTS OF THE CASE

Petron entered into agreements dated 5 April and 14 August 1980 with Toyo Engineering India Ltd. for construction and related technical services on an Iraqi storage-terminal project. A Japanese corporation had engaged Toyo India, which then engaged Petron. Petron sought CBDT approval under section 80-O. On 5 January 1982 the Board refused approval because Petron's agreements were with an Indian company and its contract price came from that company, rather than a foreign government or foreign enterprise. The Bombay High Court rejected Petron's challenge. The Supreme Court considered whether an overseas establishment of an Indian company qualified as a foreign enterprise and whether indirect fulfilment of the provision's objectives could satisfy its conditions.

Source: [SCR pp. 1062-1065](#) / [PDF pp. 5-8](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read the expression foreign enterprise in its statutory setting and legislative development from foreign company. Overseas location was relevant but insufficient: the enterprise had to be situated abroad and created or registered according to that country's law. An Indian company's branch or unit abroad did not become a foreign enterprise merely through its location. The Court rejected both the asserted alternative interpretation and an expansive construction inconsistent with the provision's language. Earning foreign exchange or indirectly supplying technical services could not replace express statutory conditions. Petron failed two material conditions: it received the relevant income from an Indian company, and its agreements were with that Indian company. The Court also disagreed with the High Court's view that a direct agreement with the foreign government or enterprise was unnecessary. Allowing the arrangement through an Indian intermediary, described as canalisation, was a legislative choice that the Court could not insert into the section.

Source: [SCR pp. 1066-1073 / PDF pp. 9-16](#)

03 JUDICIAL DECISION

The Supreme Court held that CBDT was justified in refusing approval of Petron's agreements with Toyo India under the relevant version of section 80-O. It dismissed the appeal without an order as to costs. It did not authorise an indirect-contract exception or direct the Board to reconsider the application.

Source: [SCR pp. 1071-1073 / PDF pp. 14-16](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of CBDT/Revenue. The refusal to approve the two agreements stood, so Petron obtained no relief under the section through this appeal. The Court's correction of one aspect of the High Court's reasoning did not change that final outcome.

Source: [SCR pp. 1071-1073 / PDF pp. 14-16](#)

05 AKHB REVIEW POINT

AKHB analysis: when reviewing an archival section 80-O claim, map the legal identity of each contractor, where and under which law it was established, the contracting parties and the actual payer. Overseas performance and foreign-currency receipts do not by themselves establish every eligibility condition. Keep the Court's interpretation of this historical scheme separate from present-day cross-border deduction, withholding and treaty questions. Independently verify the applicable statutory version and later decisions before relying on the case's exemption-construction discussion.

Source: [AKHB analysis based on SCR pp. 1067-1073 / PDF pp. 10-16](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 16-page SCR report read; editorial headnote on PDF pages 1-4 distinguished from the judicial text beginning on PDF page 5.

Open cited source rendition

The exact source bytes, SHA256 and 16-page count match catalogue asset S_1988_3_1058_1073. All pages were read, including the full judicial reasoning after the headnote.

The judgment contains no numbered judicial paragraphs; SCR and physical PDF page references are used.

The Court expressly identifies AY 1980-81 at SCR p. 1063. The report's unverified historical effective-date statement concerning section 85-C is not repeated as current legislative history.

The SCR citation, date, bench and appeal number were verified in the report; the catalogue's retrospective INSC number was not independently adopted.

STATUTORY SCOPE

The Court expressly considered section 80-O in the form applicable to AY 1980-81, including the then Board-approval and foreign-enterprise requirements. The historical deduction and approval scheme must not be represented as a currently available benefit.

LATER TREATMENT

Source checked 2026-10-10. Later statutory amendments, subsequent judicial treatment and current exemption-interpretation doctrine have not been comprehensively checked. No current-law clearance is asserted.

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.

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