

COMMISSIONER OF INCOME TAX, DELHI CENTRAL v. MODI SPINNING AND WEAVING MILLS CO. LTD.

Civil Appeal No. 330 of 1976; originating High Court reference: ITR No. 457 of 1968
[1990] Supp. 2 SCR 461 | 1990-10-26

The Court left the assessee's development-rebate allowance intact because CBDT had clarified that the loss-year and genuine-deficiency parts of its earlier reserve instructions survived. It expressly declined to choose between the competing broader and narrower judicial views.

2-judge bench | Madan Mohan Punchhi, J. | S. C. Agrawal, J.

The Court did not settle every reserve-timing question

The appeal was dismissed in light of CBDT's surviving clarifications. The Court expressly declined to choose between competing views. Relief remains tied to the relevant circular limb and conditions; headnote labels must not be treated as a broader merits holding.

Operative context: Indian Income-tax Act, 1922; historical sections 10(2)(vib) proviso (b).

01 FACTS OF THE CASE

The Allahabad High Court answered in favour of Modi Spinning a question whether the company had complied with proviso (b) to section 10(2)(vib) of the 1922 Act and was entitled to development rebate for plant and machinery installed after 1 January 1958. Revenue appealed. The Supreme Court did not set out the underlying accounting entries in detail; it identified the controversy as the timing of the development-rebate reserve.

Indian Overseas Bank had affirmed the need for a separately created reserve and distinguished it from other reserves under company and income-tax law. Some authorities then read that decision as displacing all three clarifications in CBDT's 1965 instructions. A narrower view of the circular's survival produced revisional and rectification disputes and conflicting High Court approaches.

Source: [SCR 463 D-464 H](#)

02 DISCUSSION BY THE HON'BLE COURT

The order reproduced three parts of the Board's explanation. Part (a) concerned treating certain existing development reserves in specified industrial undertakings as including the statutory reserve. Part (b) concerned a year in which income before development rebate was a loss and no rebate would actually be allowed. Part (c) permitted condonation of genuine deficiencies, absent deliberate contravention, when made good through an adequate additional reserve in the books for the year of assessment.

The Court then noted the Board's clarification that only part (a) stood superseded by Indian Overseas Bank, while parts (b) and (c) remained effective. Because the Board had adopted the broader view and the tax authorities were following it, the Court saw no reason to decide which of the two judicial views was correct. Applicability of the Board's view to both the 1961 and 1922 Acts was undisputed.

This reasoning resolves the appeal but has a defined limit. It does not formulate a universal rule that a reserve may always be created late, and it does not dispense with the qualifications stated in the surviving instructions. The headnote's broad 'overruled' and 'approved' labels should not replace the Court's express decision to leave the competing interpretations unresolved.

Source: [SCR 464 A-465 F](#)

03 JUDICIAL DECISION

Revenue's appeal failed and the High Court's judgment remained untouched. The result preserved the assessee's development-rebate relief in light of the Board's clarified position. The Supreme Court made no independent finding about particular reserve entries omitted from its factual account.

Source: [SCR 465 E-F](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal dismissed; High Court judgment left untouched. Result: Assessee. Costs: No order as to costs. Scope: Appeal finally disposed of on the clarified Board position; competing legal views not independently resolved. Limit: Surviving circular parts (b) and (c) and their conditions; no general waiver of reserve requirements.

Source: [SCR 465 F](#)

05 AKHB REVIEW POINT

Identify the exact circular limb invoked and prove its factual conditions, including loss before rebate or genuine deficiency without deliberate contravention. Preserve dated accounts and corrective entries. Read the judgment's actual reasoning before relying on headnote treatment labels. For another year or incentive, verify that the applicable reserve condition and circular survive; a historical development-rebate ruling cannot by itself establish relief under a later capital allowance.

Source: [SCR 464 B-E](#); [465 C-F](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

5-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

The report inconsistently prints the original circular as 4/14 October 1965 and Circular 189 as 30 January 1976/1986. The later Span Industries judicial text identifies Circular 189 as 30 January 1976. Those printed anomalies are disclosed rather than silently corrected. This source is separate from other same-party Modi Spinning cases.

The order does not identify an assessment year; it refers to plant and machinery installed after 1 January 1958.

STATUTORY SCOPE

Indian Income-tax Act, 1922, section 10(2)(vib) proviso (b).

Section 34(3)(a), in the official historical 1975 text checked, ties section 33 development rebate to a specified reserve. Span Industries gives a specific later section 34(3) use. No full amendment, incentive-sunset or circular-survival history was verified.

No corresponding operative development-rebate entitlement or direct 2025 section mapping has been verified. In particular, section 34 of the 2025 Act concerns general deductions and must not be confused with section 34 of the 1961 Act.

No automatic precedent carry-over or verified case-specific 2025 applicability is claimed.

LATER TREATMENT

Source checked 2026-10-06. CIT v. Span Industries, Delhi High Court, 4 January 2001, paragraph 6, relied on the Supreme Court's Modi Spinning disposal when answering a section 34(3) reserve-entry question for the assessee. It identified Circular 189 as dated 30 January 1976.

Read the web-indexed judicial text of Span Industries, paragraphs 1-8, including its own facts, reference question, Modi discussion and answer. The official Delhi High Court PDF open failed and a later direct reproduction open failed; no raw PDF/image check is claimed. Comprehensive later treatment and the complete circular amendment history remain unverified.

IDENTIFIED SOURCE LINKS

CIT v. Span Industries (2001-01-04), nonofficial HTML judicial reproduction

Web-indexed judicial paragraphs 1-8, especially 6-7; official linked Delhi High Court PDF unavailable on opening. Search-result judicial text only, not editorial summary or raw PDF verification.

1961 Act section 34(1), (3)(a), official historical version labelled 1975

1961 Act section 34(1), (3)(a), official historical version labelled 1975; read for the development-rebate reserve framework only.

AI DISCLOSURE

AI-assisted research. The AKBH Review Point is editorial analysis, not part of the Court's judgment.

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