

Commissioner of Income Tax, Gujarat v. Cellulose Products of India Ltd.

Civil Appeal No. 1314 (NT) of 1976

[1991] 3 SCR 888 | 1991-09-04

Whether marketable cellulose pulp manufactured before CMC production began started the historical section 84 five-year period in AY 1961-62, defeating the claim for AY 1966-67, and whether the High Court could disregard the Tribunal's supported factual finding.

84, historical | 84(7), historical | 261

Three-judge bench | S. Ranganathan, J. | V. Ramaswami, J. | N.D. Ojha, J.

Assessment years: 1966-67

Marketable production finding; historical section 84 and source-date anomaly

The five-year period began with AY 1961-62 on a supported finding of finished, marketable pulp, so the AY 1966-67 claim failed. Mere trial production was alleged and rejected; the new CMC-only investment claim was not decided on its merits. The report's 1989 incorporation date is internally inconsistent. Section 84 was historical; current-law application and later treatment remain unverified.

01 FACTS OF THE CASE

The company's objects included manufacture of CMC, cellulose pulp and other chemical products. It was licensed to manufacture sodium carboxy methyl cellulose (CMC) and installed a cellulose plant producing pulp for use in CMC. Pulp production began on 18 March 1961; CMC production began on 15 June 1961 (physical page 3/SCR 890). The printed incorporation date of 14 April 1989 conflicts with this chronology and is not adopted as a verified historical fact.

For AY 1966-67 the company claimed section 84 relief. The ITO and appellate authorities treated AY 1961-62 as the starting year and AY 1965-66 as the last of the five eligible years. The Tribunal rejected the assertion of mere trial production and found that the March 1961 pulp was a finished, marketable commodity. The High Court nevertheless treated articles as the undertaking's ultimate CMC product and answered the reference for the assessee. Revenue appealed (physical pages 4-5/SCR 891-892).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court held that a High Court hearing a reference acts in an advisory capacity, not as an appellate, revisional or supervisory authority over the Tribunal. A factual finding reached on the evidence cannot be displaced unless unsupported by evidence, perverse or patently unreasonable. None of those defects affected the Tribunal's findings that the March production was commercial rather than trial production and that the pulp was itself a marketable finished product; marketability was also not disputed before the Supreme Court (physical page 6/SCR 893).

Captive use of that product as raw material for CMC did not erase its separate character. The licence for CMC included manufacture of the needed intermediate pulp, and the company's objects expressly covered pulp. In that factual setting, the High Court was wrong to postpone the starting point until CMC manufacture. The cited Madras Machine Tools decision did not advance the assessee's position on these facts (physical page 6/SCR 893).

The plain language of section 84(7) started the five-year period with the assessment year relevant to the previous year in which articles began to be manufactured or produced. The Court found no ambiguity calling for the liberal construction urged by counsel. It emphasised that when production began remains an evidence-based question in each case. Counsel's alternative request to retain relief on investment specific to the CMC plant was not entertained because it had neither been set up before the Tribunal nor made the subject of a referred question (physical page 7/SCR 894).

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

03 JUDICIAL DECISION

Revenue's appeal was allowed with costs and the High Court judgment was set aside. The Tribunal's conclusion that AY 1961-62 began the period was upheld, so section 84 relief for AY 1966-67 failed. The costs were not quantified in this source. No merits determination or allocation was made on the new CMC-only investment claim (physical pages 6–7/SCR 893–894).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Appeal allowed with costs; High Court judgment set aside

Final determination of the historical relief period on supported Tribunal findings

No universal rule that every trial run or intermediate product starts every tax holiday. Separate CMC-investment relief was procedurally unpreserved and not decided on its merits.

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

05 AKHB REVIEW POINT

Production records, saleability and the factual character of output can determine the opening year of an incentive period even where the output is later consumed within the same undertaking. The key here was a supported finding of finished, marketable production, not the bare fact that some material emerged during testing. Keep the alleged trial-production argument separate from the Tribunal's contrary finding.

A reference is not a fresh opportunity to reweigh that evidence or add an alternative investment allocation. Preserve the claim and the necessary question at the appropriate stage. The judgment itself records that section 84 was deleted from 1 April 1968; its five-year calculation cannot be carried automatically into later incentive regimes. The printed incorporation date is internally inconsistent and requires independent verification if important to another use.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Judges, date, docket, incorporation anomaly and production dates

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 888, 890

Source role: reported metadata and judicial text

2.

Topic: Actual disputed year, trial-production finding and reference

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 891–892; unnumbered judicial text

Source role: judicial text

3.

Topic: Reference jurisdiction, supported marketability finding and captive input

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 893 A–H; unnumbered judicial text

Source role: judicial text

4.

Topic: Unpreserved alternative, plain five-year rule and costs

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: SCR 894 A–E; unnumbered judicial text

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

N.D. Ojha, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER PROVISIONS AND THEIR DISTINCT SCOPE

Finance (No. 2) Act, 1967: deletion of section 84 from 1 April 1968 as recorded in the judgment

SOURCE & VERIFICATION

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

Identified source rendition: 7 PDF pages; SHA-256

d49d9e7f197bae75e7f28210b04a40ebd559ebc334143ab3036e65fbe244658f. Original bytes preserved.

Editorial material and proceeding details at physical pages 1–3/SCR 888–890; complete N.D. Ojha J. opinion starts on page 3/SCR 890 and concludes with allowance with costs on page 7/SCR 894. No adjacent judgment.

[Open cited source rendition](#)

Both the headnote and judicial opening print incorporation on 14 April 1989, although the same judgment describes production in 1961 and a 1966-67 assessment. The note flags the internal inconsistency without guessing a corrected incorporation year.; Only AY 1966-67 is the disputed claim. AYs 1961-62, 1962-63 and 1965-66 identify rival starting points and the accepted endpoint; they are not additional appeals.; The assessee alleged trial production; the Tribunal found finished, marketable production, and the Supreme Court upheld that supported finding. The allegation is not adopted as fact.; The alternative CMC-plant investment claim was excluded because it had not been raised below or referred; no substantive denial of all possible separate-undertaking relief is inferred.; The result allows costs but fixes no amount. Section 84 deletion is expressly recorded in the primary judgment; no broader statutory or later-treatment audit has been undertaken.

AY 1966-67 is the disputed claim. AY 1961-62 was held to start the five-year period, ending with AY 1965-66; AY 1962-63 was the rejected later starting point. Previous year for the disputed assessment: financial year 1965-66.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment search or present-law audit is certified. This batch relies only on the identified historical primary judgments.

IDENTIFIED SOURCE LINKS

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

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