

Escorts Limited and another etc. v. Union of India and others

Writ Petition No. 90 of 1981 and connected petitions / Writ Petition No. 1153 of 1981 (representative facts expressly discussed)

[1992] Supp. 2 SCR 153 | 1992-10-22

Could capital expenditure on scientific-research assets already written off under section 35 also earn depreciation under section 32 in other years, and did the Finance (No. 2) Act 1980 retrospective clarification take away an existing entitlement?

32(1)(ii) | 35(1)(iv) | 35(2)(i) | 35(2)(ia) | 35(2)(iv) | 35(2)(v) | 43(1) Explanation 1

Three-judge bench | S. Ranganathan, J. | V. Ramaswami, J. | B.P. Jeevan Reddy, J.

Assessment years: 1969-70, 1970-71, 1971-72, 1972-73, 1973-74, 1974-75, 1975-76, 1976-77, 1977-78, 1978-79, 1979-80, 1980-81

Same-cost prohibition with reserved questions and historical limits

Escorts bars a second deduction of capital research cost already written off; it does not override express statutory incentives or decide every research asset's business-use eligibility. Both opinions treat the 1980 change as clarificatory and dismiss the petitions without costs; the hypothetical constitutionality of a wholly new retrospective burden and individual reopening powers were not decided. Representative AYs are not a complete group schedule, and the report contains noted date/cross-reference slips. The 2017 section 11 source is a different-regime comparison, not an express citation to Escorts. Comprehensive later treatment, current law and 2025 Act mapping remain unverified.

01 FACTS OF THE CASE

The petitions under Article 32 challenged the retrospective amendment of section 35(2)(iv), which extended the prohibition on depreciation from the same previous year to the same or any other previous year, with effect from 1 April 1962. The petitioners claimed that research expenditure and depreciation were independent allowances and that the old wording permitted depreciation in years when the research deduction was no longer being allowed. They alleged an oppressive new burden and interference with constitutional rights; legislative competence and the general power to legislate retrospectively were not contested (physical pages 13–16 and 23).

The predecessor 1922 Act had allowed capital research expenditure in five annual instalments. The 1961 Act continued the structure; the later change provided a full write-off for qualifying expenditure after 31 March 1967. The Finance (No. 2) Act 1967 made that change effective from 1 April 1968. This expenditure cutoff, statutory effective date and 1980 retrospective clarification are different events (physical pages 9–12, 14, 23–24; bounded historical section 35 text and annotations).

The Court tested the alleged uniformity of prior practice using W.P. 1153/1981. Its account covered AYs 1969-70 through 1980-81 and mixed lower-authority results, including an assessee-favourable Allahabad Tribunal decision for 1970-71 and a Revenue-favourable Delhi Tribunal decision for 1971-72. The asserted 1969-70 allowance was disputed, several assessments remained pending, and the lead opinion expressly limited this history to information at the affidavit stage. It found a live controversy rather than settled acceptance of a right to duplicate allowances (physical pages 16–17).

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

02 DISCUSSION BY THE HON'BLE COURT

Ranganathan J., writing for himself and Ramaswami J., treated both provisions as ways of writing off the same capital outgoing. Without clear statutory indication, the Act was not to be read as granting the same expenditure twice. The bar for the same previous year did not imply a fresh depreciation entitlement after five instalments or the single-year research write-off. It identified the special research allowance as the applicable allowance rather than the ordinary annual depreciation deduction (physical pages 17–21).

Section 43(1) Explanation 1 reinforced that reading: when the asset later moved from research to other business use, its actual cost for depreciation was reduced by the research deductions already allowed. That pro tanto reduction would be inconsistent with treating the two allowances as wholly independent. The Court rejected the asserted deliberate contrast with the British provision and the argument from other Indian provisions containing express anti-duplication language (physical pages 18–21).

The lead opinion concluded that the pre-1980 law already denied depreciation to the extent the same capital cost had been written off for scientific research. It rejected the contrary views in *Indian Telephone Industries* and *Hico Products*. Because the amendment merely stated that existing position more explicitly, the alternative constitutional questions based on ambiguity or an entirely new retrospective burden did not require decision. The Court also noted the accepted validity of a genuinely clarificatory amendment on the alternative ambiguity hypothesis (physical page 22).

Jeevan Reddy J. concurred separately. The allowances were alternative, not consecutive; expressly authorised weighted deductions were different. His historical 60%-remaining-cost illustration showed why a research asset diverted after two annual instalments could have only the reduced cost available for depreciation, whereas a fully written-off cost could not be revived. He also noted that the assessments in the representative factual account had not attained finality. Both opinions dismissed the writ petitions without costs (physical pages 23–29).

A distinct threshold question was expressly left open: whether every asset used for scientific research related to business is necessarily an asset used for the purposes of business for depreciation. The Court assumed that proposition only for this controversy (physical page 10). The judgment therefore does not establish eligibility of every research asset, nor does it confer an unrestricted power to reopen or rectify assessments.

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

03 JUDICIAL DECISION

Even before the 1980 amendment, depreciation could not be claimed again on the portion of capital scientific-research cost already written off under the relevant research allowance. The Finance (No. 2) Act 1980 amendment was clarificatory, making explicit what the provisions already required. The writ petitions failed and were dismissed with no order as to costs. No new-burden constitutional holding or individual tax computation was necessary (physical pages 21–22 and 28–29).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Union of India / Revenue

All writ petitions dismissed; no costs

Final substantive construction of the deduction provisions and rejection of the retrospective-clarification challenge

No duplicate deduction of the same cost absent statutory authorisation. Express weighted deductions and remaining cost on a qualifying change of use require their own text. Individual assessment/reopening/rectification questions and the general business-user eligibility premise were not adjudicated.

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

05 AKHB REVIEW POINT

Trace the same expenditure across provisions and years. A full research write-off does not become a new depreciable cost merely because a later year is outside the original deduction period. Where cost was only partly written off and the statutory change-of-use rule applies, analyse the remaining cost rather than treating every research asset as permanently incapable of depreciation. Preserve the amount and timing of each deduction.

Do not elevate the no-double-deduction principle into a prohibition overriding clear statutory language. Nor does calling the 1980 change clarificatory validate every retrospective tax amendment: the Court's conclusion depended on its construction that the old law already produced this result, and it left the materially different new-burden premise unanswered. Sections 148 and 154 retain their independent procedural conditions.

A separately checked 2017 order concerning charitable institutions allowed depreciation under the then-applicable section 11 approach despite acquisition cost having been treated as application of income, and recognised section 11(6) as prospective from AY 2015-16. That order does not expressly cite Escorts; it is a bounded comparison of different statutory settings, not a direct treatment or overruling certificate. Determine the governing provision and year before using a slogan about double deduction. Current law, post-2017 completeness and any 2025 Act mapping remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, lead petition and lead opinion opening

Source url: [Open cited source](#)

Pdf pages: 1; 4; 8

Paragraphs: SCR 153, 156, 160; caption, opinion attribution and Article 32 case details

Source role: reported metadata and judicial text

2.

Topic: Historical allowances and reserved business-user premise

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: SCR 161–164; reproduced provisions and express assumption

Source role: judicial text

3.

Topic: 1980 amendment, constitutional arguments and representative assessment history

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15; 16; 17

Paragraphs: SCR 165–169; submissions and affidavit-stage factual account

Source role: judicial text

4.

Topic: Lead opinion on no double deduction and reduced actual cost

Source url: [Open cited source](#)

Pdf pages: 17; 18; 19; 20; 21; 22

Paragraphs: SCR 169–174; reasoning, rejected contrary views, questions not arising and dismissal

Source role: judicial text

5.

Topic: Separate concurrence, residual cost and dismissal

Source url: [Open cited source](#)

Pdf pages: 23; 24; 25; 26; 27; 28; 29

Paragraphs: SCR 175–181; Jeevan Reddy J.'s full concurrence

Source role: judicial text

6.

Topic: Historical dates distinguished

Source url: [Open cited source](#)

Pdf pages:

Paragraphs: 2012 compilation: section 35(2)(i)/(ia), (iv); amendment notes 99 and 7

Source role: bounded historical statutory text

7.

Topic: Different section 11 setting and prospective 2014 amendment

Source url: [Open cited source](#)

Pdf pages: 2; 3; 4; 5; 6

Paragraphs: Unnumbered signed order; quoted Bombay High Court reasoning and Supreme Court adoption; no express citation to Escorts

Source role: bounded later statutory context comparison

LEAD AND SEPARATE CONCURRING OPINIONS

1.

Author: S. Ranganathan, J.

Joined by: V. Ramaswami, J.

Pdf pages: 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22

Role: Lead opinion for two judges

2.

Author: B.P. Jeevan Reddy, J.

Pdf pages: 23; 24; 25; 26; 27; 28; 29

Role: Separate concurrence agreeing with dismissal

OTHER GOVERNING STATUTES

1.

Act: Indian Income-tax Act, 1922

Sections: 10(2)(vi); 10(2)(xiv), second proviso (d) and (e)

Role: Historical predecessors analysed to construe the 1961 Act; not a separate 1922 Act assessment appeal.

2.

Act: Income-tax (Amendment) Act, 1946

Sections:

Role: Introduced capital scientific-research allowance in the predecessor Act, as described in the judgment.

3.

Act: Finance (No. 2) Act, 1967

Sections:

Role: Historical section 35(2)(i)/(ia) substitution effective 1 April 1968; expenditure incurred after 31 March 1967 received the single-year write-off. Act/effective-date distinction checked in official-hosted historical annotations.

4.

Act: Finance (No. 2) Act, 1980

Sections:

Role: Inserted the words extending the depreciation restriction to any other previous year, retrospectively from 1 April 1962.

5.

Act: Constitution of India

Sections: 14; 19(1)(g); 32; 300A

Role: Article 32 jurisdiction; retrospective-burden objections, with Article 300A expressly identified in the concurrence. Alternative constitutional questions premised on a new burden did not arise after the pre-amendment construction.

6.

Act: United Kingdom Finance Act, 1944

Sections: 20(4)

Role: Comparative material considered in the competing interpretations; no UK-law holding.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S. Ranganathan, J.; separate concurrence by B.P. Jeevan Reddy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY CHECKS AND THEIR LIMITS

Status: historical amendment annotations checked only

Summary: Official-hosted 2012 section 35 compilation, clauses (2)(i)/(ia), annotation 99, and (2)(iv), annotation 7: Finance (No. 2) Act 1967 effective 1 April 1968 with expenditure cutoff 1 April 1967; Finance (No. 2) Act 1980 retrospective words from 1 April 1962. These checks reconcile dates; the page is not current-law certification.

Source url: [Open cited source](#)

APPEAL GROUPING AND SOURCE LIMITS

One common judgment: True

Lead case: Writ Petition No. 90 of 1981

Representative case: Writ Petition No. 1153 of 1981

Origin: Original Article 32 jurisdiction challenging retrospective operation of the Finance (No. 2) Act 1980 amendment to section 35(2)(iv).

Completeness note: Caption says etc. etc. and does not enumerate every connected writ petition. The representative petition is identified in both opinions; it is not treated as the captioned lead or as a complete docket list.

Relief groups

1.

Group: All writ petitions challenging the double-allowance restriction and its retrospective clarification

Result: Dismissed, no costs

2.

Group: Underlying tax assessments and appeals

Result: No individual assessment computation, tax demand, reopening notice or rectification order separately adjudicated in the operative writ disposition

ROLE AND SCOPE OF EACH IDENTIFIED PROVISION

1.

Section: 32; 35(1)(iv); 35(2)(iv)

Role: Principal relationship between ordinary depreciation and deduction of capital scientific-research expenditure; pre-1980 meaning and clarificatory amendment decided.

2.

Section: 35(2)(i), (ia)

Role: Historical five-instalment versus single-year write-off; expenditure cutoff and statutory commencement separately identified.

3.

Section: 35(2)(v); 43(1) Explanation 1

Role: Reduced actual cost on later business use after scientific-research use supported the no-double-deduction construction.

4.

Section: 148; 154

Role: Potential reopening/rectification consequences mentioned at page 14 only to the extent those provisions permit. No individual jurisdiction, limitation or notice challenge resolved.

5.

Section: 80J and other deduction restrictions

Role: Lohia Machines and the comparator provisions discussed by counsel are context only; this judgment does not decide their independent application.

OPERATIVE 1961 ACT PROVISIONS

32(1)(ii); 35(1)(iv); 35(2)(iv); 43(1) Explanation 1

SPECIFIED LATER JUDICIAL CHECK AND ITS LIMITS

Status: different statutory regime comparison only

Case: Commissioner of Income-tax-III, Pune v. Rajasthan and Gujarati Charitable Foundation Poona

Decision date: 2017-12-13

Direct citation of primary: False

Summary: The 2017 order accepted depreciation in the then-governing charitable-trust income computation despite prior acquisition cost being application of income. It stated that section 11(6), introduced by Finance (No. 2) Act 2014, operated prospectively from AY 2015-16. Its six-page signed-order boundary does not cite Escorts. This is an editorial scope comparison, not direct later treatment or a present-law certificate.

Source url: [Open cited source](#)

Pdf pages: 2; 3; 4; 5; 6

Full later judgment read: True

QUESTIONS EXPRESSLY RESERVED

1.

Question: Does every asset used for scientific research related to business necessarily satisfy the business-use condition for depreciation?

Treatment: Assumed for the case; not decided

Pdf pages: 10

2.

Question: Would an amendment imposing a wholly new substantial retrospective tax burden on an existing clear entitlement offend the Constitution?

Treatment: Did not arise after the Court held that the old law already barred the claim

Pdf pages: 15; 22; 28

3.

Question: Are individual reopening/rectification steps or limitation periods valid?

Treatment: Not adjudicated; possible action described only to the extent permissible under sections 148 and 154

PDF pages: 14

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 29 PDF pages; SHA-256

9fc93778d53bc3bcb1bb8ae2c2d3d0853e45258a0029233dee273ed3d9b4014b. Original bytes preserved.

Complete unnumbered judicial text: S. Ranganathan J.'s opinion begins on physical page 8/SCR 160 and ends with dismissal/no costs at page 22/SCR 174; B.P. Jeevan Reddy J.'s concurrence runs from page 23/SCR 175 through page 29/SCR 181. Editorial headnotes and proceeding details on pages 1–8 separately read. No adjacent judgment.

Open cited source rendition

SCR citation verified from the PDF; repository identifier 1992INSC292 is not promoted to a printed neutral citation. No independent ITR report retrieved.

AYs 1969-70 through 1980-81 are mentioned only in the historical affidavit-stage account of representative W.P. 1153/1981 at physical pages 16–17. AY 1969-70 allowance was disputed by the Department; the Court said later developments were not known. These years are not attributed separately to Escorts or every petitioner. AY 1968-69 in the legal discussion marks a statutory transition, not another identified party assessment.

Both judicial opinions are included. The reporter identifies Ranganathan J.'s opinion as for himself and Ramaswami J.; Jeevan Reddy J. writes a separate concurrence, not a dissent.; The exact list of connected writ petitions is absent. W.P. 90/1981 is the reported lead; W.P. 1153/1981 provides representative facts. Do not assign its years or disputed lower-authority outcomes to each petitioner.; The lead opinion's 1968 reference and concurrence's 1967 reference describe the historical change differently. Official historical annotations separate Finance (No. 2) Act 1967, its 1 April 1968 effect, and the expenditure cutoff after 31 March 1967.; The concurrence at physical page 26 prints 1 April 1957 in one illustration but uses 1 April 1967 in the same discussion. The quoted statute and bounded official check establish the 1967 expenditure cutoff; 1957 is not used as an operative date.; Physical page 19 prints 1922 Act beside the 32/35 provisions and page 20 prints S.30(2)(iv). Surrounding reproduced law identifies the 1961 Act and section 35(2)(iv); no section 30 holding is inferred.; Indian Telephone Industries appears as 126 ITR 528 on physical page 14 but 126 ITR 548 on pages 16 and 22. The note does not silently resolve that reporter-citation discrepancy or claim an independent check of the High Court report.; The 200% and declining-balance illustrations explain the competing constructions; they are not reconstructed demand figures for Escorts. The printed Choksi Committee quotation in the concurrence has a 20% slip; no numerical tax finding is inferred.; The 2017 charitable-trust comparison does not expressly cite Escorts. It must remain labelled as a different statutory-context comparison and with its AY 2015-16 amendment limit.; Judicial paragraphs are unnumbered in this rendition; physical PDF and printed SCR pins are used throughout.

STATUTORY SCOPE

Historical 1961 Act context only. No automatic mapping to the Income-tax Act, 2025, comprehensive later-law audit, or present compliance certification.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive later treatment remains not_verified. A bounded corpus title/phrase search and the separately retrieved 13 December 2017 Rajasthan and Gujarati Charitable Foundation order were checked. That order does not name Escorts and is recorded only as a comparison of section 11's different setting, not as an express subsequent treatment of this precedent. No complete appeals, reviews, stays, reversals or later-legislation audit is certified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 29

SHA-256: 9fc93778d53bc3bcb1bb8ae2c2d3d0853e45258a0029233dee273ed3d9b4014b

bounded historical statutory compilation

SHA-256: 9589a0aaf4363727b813319bc988f19fac82ff5556691f1ff3f17ad8752fe72a

[bounded later comparison not direct citation - PDF pages: 10](#)

SHA-256: caa718a969900ce2c88f98edefb1af175bbf6a867c4590e448f2f4f558dca589

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