

Bharat Beedi Works (Private) Limited and Anr. etc. v. Commissioner of Income-tax

Civil Appeal No. 1452 of 1987 / Connected C.A. Nos. 4462/89, 1822, 1902, 1465/87, 675, 658, 4461/89, 6093/90, 6204/90, 6092 and 6092A of 1990 (as printed)

[1993] 3 SCR 606 | 1993-05-07

Whether genuine royalty paid for use of a valuable beedi brand to a partnership whose partners were also the company's directors fell within the historical section 40(c) ceiling merely because of that overlap of persons.

40(c)(i)–(ii), historical director-related expense ceiling | 40A(2)(a)–(b), separate excessive/unreasonable related-party payment scrutiny | 263, procedural revision background | 256, reference route

Two-judge bench | B.P. Jeevan Reddy, J. | N. Venkatachala, J.

Assessment years: 1974-75, 1975-76

Historical royalty-ceiling ruling; separate related-party scrutiny preserved

The Court excluded genuine consideration for a valuable brand from historical section 40(c), assuming the firm-to-partner point only for argument and preserving section 40A(2) scrutiny. The Prakash Beedies illustrative facts must not be relabelled as Bharat's own transaction. The report contains compressed appeal numbers, inconsistent dates and a separately quoted amount. Section 40(c)(i)–(ii) was deleted from 1 April 1989. The 2015 citation is checked only for brand value; comprehensive later treatment, present-law application and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The caption leads with Bharat Beedi Works, but the Court expressly takes the illustrative facts from Prakash Beedies (P) Ltd., Civil Appeal Nos. 6092 and 6092A of 1990. K.M. Anand Prabhu & Sons, a three-partner firm, carried on the manufacture and sale of Mangalore Prakash Beedies. Prakash Beedies was incorporated on 20 May 1972. Under the separately stated agreement of 15 July 1972 it took over the firm's rights and assets and agreed to pay royalty of 10 paise for every thousand beedies sold using the trade name, worked out quarterly. The three partners were also company directors (physical pages 3–4 / SCR 608–609).

For AYs 1974-75 and 1975-76 the stated royalty payments were Rs 3,16,526 and Rs 3,95,742 respectively. The ITO allowed them. In suo motu section 263 revision orders dated 16 September 1976, the Commissioner disallowed the payments beyond the section 40(c) ceiling. The Tribunal restored the ITO's allowance. The Karnataka High Court answered Revenue's reference against the assessee because a firm was not a distinct juristic person and payment to the firm was therefore payment to its director-partners (physical pages 4–5 / SCR 609–610).

The Supreme Court's quoted question separately refers to Rs 1,79,742 for AY 1974-75; that figure is not identified as a tax demand, and the report does not reconcile it with the illustrative total royalty figures. The agreement's genuineness and validity, the royalty payments and the significant business value of the brand were undisputed (physical pages 3 and 5–6 / SCR 608 and 610–611).

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

02 DISCUSSION BY THE HON'BLE COURT

The historical section 40(c) combined a reasonableness test for the specified expenditure with an absolute ceiling, then Rs 72,000 where the relevant period exceeded eleven months or Rs 6,000 per month or part for a period not exceeding eleven months. Its purpose, considered with the Finance Minister's speech, was to restrain high salaries and remuneration. The Court distinguished that field from section 40A(2), which subjected related-party payments for commercially valuable goods, services or facilities to fair-market-value, business-needs and benefit scrutiny (physical pages 6–8 / SCR 611–613).

The Court assumed for argument that the firm's receipts were payments to its partners; it did not decide the firm's separate-personality contention. Even on that assumption, genuine consideration for permission to use the valuable brand was not remuneration paid to directors in their capacity as directors. So long as the agreement was not a device or screen, the royalty fell outside section 40(c). Section 40A(2) scrutiny remained possible. The Court approved the approach in T.T. (Pvt.) Ltd. and referred to similar High Court views, rather than holding every payment to a director or every royalty unconditionally deductible (physical pages 8–10 / SCR 613–615).

The Court also expressly explained its own Indian Engineering decision of 13 April 1993. That decision's language about direct cash commission responded to the perquisite argument under section 40A(5)(a)(ii); it could not be detached from that context or applied to unrelated provisions. The royalty's character as expenditure was not disputed here. Revenue's broader objection about relatives and other specified persons was not pursued further because those circumstances did not arise on these facts (physical pages 8 and 10 / SCR 613 and 615).

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

03 JUDICIAL DECISION

The connected assessee appeals were allowed, the High Court judgment was set aside, and the reference question was answered affirmatively in favour of the assessee and against Revenue: the payments did not fall within section 40(c). No costs were ordered. The Court did not quantify a section 40A(2) disallowance or decide a separate capital-versus-revenue issue (physical page 10 / SCR 615).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Connected appeals allowed; High Court judgment set aside; reference answered affirmatively for assessee; no costs

Final reasoned exclusion of the genuine brand royalty from the historical section 40(c) ceiling

The validity and business value of the royalty arrangement were undisputed. The firm/personality point was assumed, not decided; section 40A(2) scrutiny was preserved.

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

05 AKHB REVIEW POINT

Identify the right being supplied and the capacity in which the recipient earns the payment. A commercial brand-use agreement supported by business value is analytically different from remuneration for holding office. Retain the contract, royalty basis and evidence of commercial value, and separately test any related-party excessiveness rule applicable to the relevant year. This judgment supplies no universal deduction, royalty valuation or capital/revenue answer.

A bounded later check of Mangalore Ganesh Beedi Works, decided on 15 October 2015, confirms that paragraph 21 cites Bharat Beedi for the limited proposition that a brand name has value (physical page 12 / SCR 1091 of 2015_13_1080_1098). That citation arises in a different acquisition/depreciation dispute. It neither reinstates section 40(c) nor by itself establishes the present treatment of any royalty.

The earlier Indian Engineering judgment expressly records deletion of section 40(c)(i)–(ii), alongside section 40A(5), with effect from 1 April 1989 (physical page 6 / SCR 91). The ceiling is therefore historical, not a current rupee limit. Preserve the distinction between the Bharat caption and Prakash illustrative facts, and the report's unreconciled dates and amount. Comprehensive later treatment 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: Caption, date, bench, connected appeal numbers and identified Prakash illustrative appeals

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Exact physical PDF pages; primary judicial text is unnumbered. SCR pagination is given in the note.

Source role: reported metadata and judicial text

2.

Topic: Agreement, quarterly royalty basis, assessment years, amounts and procedural history

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: Exact physical PDF pages; primary judicial text is unnumbered. SCR pagination is given in the note.

Source role: judicial text

3.

Topic: Undisputed genuineness; historical ceiling and separate related-party reasonableness scheme

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8

Paragraphs: Exact physical PDF pages; primary judicial text is unnumbered. SCR pagination is given in the note.

Source role: judicial text

4.

Topic: Contextual explanation of Indian Engineering and assumed partnership point

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: Exact physical PDF pages; primary judicial text is unnumbered. SCR pagination is given in the note.

Source role: judicial text

5.

Topic: Brand-use consideration, section 40A(2) reservation and approved reasoning

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Exact physical PDF pages; primary judicial text is unnumbered. SCR pagination is given in the note.

Source role: judicial text

6.

Topic: Appeals allowed, affirmative reference answer for assessee and no costs

Source url: [Open cited source](#)

Pdf pages: 10

Paragraphs: Exact physical PDF pages; primary judicial text is unnumbered. SCR pagination is given in the note.

Source role: judicial text

7.

Topic: Judicial statement of deletion from 1 April 1989

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Exact physical PDF pages; primary judicial text is unnumbered. SCR pagination is given in the note.

Source role: earlier companion judicial text

8.

Topic: Bounded later citation only: brand name has value

Source url: [Open cited source](#)

PDF pages: 12

Paragraphs: Paragraph 21, physical page 12 / SCR 1091; identity/date checked at physical page 1

Source role: bounded later judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 10 PDF pages; SHA-256

bae705185c9a8a3d679eb2aa2c8d6352f51429d4a6caeb213aede40f41c05867. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–10 / SCR 608–615; editorial headnote pages 1–3 kept separate.

Connected-appeal caption and illustrative Prakash Beedies facts distinguished from lead Bharat Beedi title.

Open cited source rendition

The illustrative taxpayer is Prakash Beedies, not a factual finding that Bharat Beedi itself entered the displayed agreement. The caption identifies a connected group and the body selects Civil Appeal Nos. 6092 and 6092A of 1990.; Physical page 3 prints “Prior to 15.7.1992”, while the company incorporation and the separate full agreement description are in 1972. The note uses the express agreement date without silently rewriting the inconsistent opening.; The originating-order caption prints 10 July 1986 but I.T.R.C. No. 198 of 1987. That chronological mismatch is not repaired or used to infer a different proceeding.; The connected-appeal line prints 675 and compresses years for several numbers. Preserve that source form; do not silently infer individual years or replace the number from another report.; The quoted question’s Rs 1,79,742 is kept separate from the illustrative royalties of Rs 3,16,526 and Rs 3,95,742. The report gives no reconciliation and no quantified tax result.; The procedural narrative calls the Tribunal appeals against ITO orders despite first describing Commissioner revision orders under section 263. The reliable procedural result is that the Tribunal restored the ITO’s allowance.; The Court assumed firm receipts were payments to partners only for argument, and preserved section 40A(2). It did not decide every payment to relatives, a royalty valuation dispute, or a capital/revenue classification.; The 2015 later citation is checked only for recognition of brand value; the April 1993 companion supplies historical deletion context. No comprehensive later-treatment or current-law claim follows.

These are the years expressly assigned to the illustrative Prakash Beedies facts and reference questions. The report says the connected cases have identical facts but does not separately enumerate every connected appeal’s years.

Section 40(c) is the actual decided disallowance provision; section 40A(2) is expressly left available for distinct scrutiny, not adjudicated as a quantified disallowance. Section 40A(5)(a)(ii) appears in the explanation of Indian Engineering and the section 40(c) proviso; section 37 and capital/revenue classification are not separately decided here.

The connected-appeal caption uses compressed year grouping. Its unyearred numbers and printed 675 are preserved without inventing separate years or silently substituting another number. The judicial body expressly identifies the illustrative Prakash Beedies appeals as Nos. 6092 and 6092A of 1990.

STATUTORY SCOPE

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

LATER TREATMENT

Source checked 2026-10-04. Only the specifically identified later primary passages have been checked. No comprehensive subsequent-treatment search or present-law certification is claimed.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 10](#)

SHA-256: bae705185c9a8a3d679eb2aa2c8d6352f51429d4a6caeb213aede40f41c05867

[earlier companion judgment historical statutory context - PDF pages: 8](#)

SHA-256: 55d967d259357afc57776c05648d928c69f224bc80328a939bbcfdfcb25c88e4

[bounded later judgment - PDF pages: 19](#)

SHA-256: 7219a3223ac64b8eb84bc5fbfed90179ae8d62de2357668c852510d673af34ee

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