

Builders Associations of India v. Union of India and Others

Writ Petition (Civil) No. 430 of 1994

[1994] Supp. 2 SCR 376 | 1994-08-01

Whether three assertedly overlooked materials required reconsideration of N.C. Budharaja's exclusion of dams, buildings, bridges, roads and similar immovable construction from historical section 32A(2)(b)(iii).

32A(2)(b)(iii), historical substituted wording | 32A(2A) | 32AB(2) and 32AB(4)(e), comparative historical scheme | 119, circular relevance | 256, only in the quoted Bhageeratha procedural setting

Two-judge bench | B.P. Jeevan Reddy, J. | S.C. Sen, J.

Assessment years: See the source-scope notes; no year inferred.

Historical section 32A ruling; distinct schemes and time limits matter

This reasoned admission-stage dismissal reaffirms Budharaja for the historical section 32A(2)(b)(iii) wording. It is not a blanket bar on every tax incentive for construction businesses or a decision granting section 32AB relief. The later 2011 compilation records a 31 March 1990 new-asset cutoff for section 32A and an AY 1991-92 onward bar for section 32AB; its Gazette footnote was not independently authenticated. The quoted ministerial and circular materials were not separately sourced. No individual tax amount, current-law entitlement, comprehensive later treatment or 2025-Act mapping is verified.

01 FACTS OF THE CASE

Builders Associations brought Writ Petition (Civil) No. 430 of 1994 under Article 32, asking the Court to reconsider N.C. Budharaja & Co. and refer the section 32A(2)(b)(iii) question to a larger bench. Budharaja had treated the words article or thing in that provision as referring to movables and had rejected investment allowance for the construction of dams, buildings, bridges, roads and similar immovable works. This was not an appeal determining the petitioner's own quantified investment allowance or tax liability (physical page 4/SCR 379 A-H).

Counsel relied on three matters said not to have been presented in Budharaja: a Law Ministry opinion of 16 February 1984 and the Minister of State for Finance's answer to unstarred question 5495 on 11 December 1987, which supported reading construction independently; a 1986 CBDT circular explaining the newly introduced section 32AB investment-deposit scheme; and the result in Bhageeratha Engineering. Counsel also argued that, given the ministerial position, the Government should not have pursued its earlier appeals. The order reproduces the materials and the earlier Bhageeratha order before addressing each argument (physical pages 5-8/SCR 380-383).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court declined to isolate construction from the remainder of the statutory phrase. Under the predecessor provision, eligibility had depended on articles and things in the Ninth Schedule, including ships. The 1977 substitution changed that positive list to a formulation covering articles and things outside the Eleventh Schedule. Ships remained within the provision, explaining why construction was retained. Context, associated words and legislative history therefore defeated the proposed reading that would embrace every kind of construction. The Court adopted and reaffirmed Budharaja's interpretation rather than accepting a dictionary meaning detached from the scheme (physical pages 8-11/SCR 383 D-386 A).

Section 32A(2A), inserted by the same 1977 legislation, reinforced that reading. It preserved allowance for machinery mainly used for construction, manufacture or production of qualifying articles or things even though partly used for items in the prohibited list. Treating construction as unconnected with article or thing would make its repetition in that clarificatory subsection redundant. This reasoning concerns the mixed-use rule and contextual interpretation; it does not dispense with the other conditions of investment allowance (physical page 11/SCR 386 B-G).

The Law Ministry's view and the ministerial answer were opinions, not interpretations binding on the Court. It was not even suggested that the Law Ministry opinion had been communicated to assessing authorities. Whether Government ought to have instructed its lawyers to abandon the earlier appeals was a matter between Government and counsel and did not affect the correctness of the statutory interpretation. These materials would not have altered Budharaja's result (physical pages 11-12/SCR 386 H-387 E).

The circular addressed a different scheme. Section 32AB dealt with an investment-deposit account or qualifying utilisation, and its language about construction as an eligible business could not be transplanted into section 32A. The Court considered section 32AB(4)(e), observed that the circular did not clearly extend to all types of construction, and held that its significance as a section 119 instruction for section 32A was at most remote and inferential. Although the circular also discussed section 32A, it contained no comparable assurance there. The order did not decide a freestanding section 32AB claim or declare all CBDT circulars irrelevant (physical pages 12-13/SCR 387 F-388 F).

Bhageeratha did not decide the disputed construction of the statutory phrase. Its result rested on the unchallenged Tribunal finding that the assessee was engaged mainly in manufacture or processing and was an industrial undertaking. The Court therefore found no contrary interpretation requiring a larger bench. This point was not seriously pressed at the end. The full quoted earlier order records dismissal of a special-leave petition, whereas the later discussion calls it a Revenue appeal; neither formulation makes Bhageeratha a fresh proceeding disposed of here (physical pages 7-8 and 13-14/SCR 382 D-383 C and 388 F-389 B).

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

03 JUDICIAL DECISION

The Supreme Court dismissed the Article 32 writ petition at admission, giving substantive reasons for rejecting all three grounds for reconsidering Budharaja. The requested larger-bench reconsideration did not follow. The historical section 32A(2)(b)(iii) construction remained as stated in Budharaja. The operative order states no separate costs direction (physical pages 4 and 14/SCR 379 B-C and 389 B-C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Union of India/Revenue on the requested reconsideration

Writ petition dismissed at admission by a reasoned final order

Substantive historical section 32A interpretation reaffirmed; no individual assessment or tax quantification

No general determination that every construction business is ineligible for every tax incentive, no independent section 32AB award, and no fresh disposal of Budharaja or Bhageeratha.

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

05 AKHB REVIEW POINT

Identify the precise incentive, statutory wording and relevant year before relying on a statement that construction qualifies. This order rejects severing one word from the historical section 32A phrase; it does not decide every allowance available to a construction enterprise or the treatment of separately proved manufacture. A ministerial opinion, a circular about another scheme and an earlier result resting on an unchallenged finding cannot replace the interpretation actually in issue.

The separately checked Department of Revenue-hosted 2011 compilation retains the 1977 substitution/insertion history, but it is a later historical compilation. Its footnote to section 32A records Notification S.O. 233(E), dated 19 March 1990, barring allowance for new assets acquired or installed after 31 March 1990, while section 32A(8)/(8B) must be read for the historical transition. The underlying Gazette notification was not separately read. Section 32AB's second proviso bars deduction for AY 1991-92 and later years, and the compilation also records omission of the earlier eligible-business definition. The judgment's quoted historical language must not be mistaken for an unchanged current scheme (compilation physical pages 213-216 and 221-224).

No comprehensive later-treatment search, current-law applicability or 2025-Act correspondence is certified. The circular's content here is used only as reproduced and assessed in this judgment; its separate original was not authenticated.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: No separate costs direction stated

Proceeding outcomes

1.

Case number: Writ Petition (Civil) No. 430 of 1994

Originating court: Supreme Court of India, original Article 32 jurisdiction

Lower court proceeding: Not applicable; none stated

Petitioner role: Association seeking reconsideration of the historical investment-allowance interpretation

Outcome: Dismissed at admission with reasons; no larger-bench reconsideration ordered

Costs: No separate costs direction stated

Pinpoint: Physical page 4/SCR 379 A-C and physical page 14/SCR 389 B-C

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, original proceeding and reasoned admission-stage posture

Source url: [Open cited source](#)

Pdf pages: 1; 4

Paragraphs: SCR 376 heading; 379 A-C

Source role: identity and judicial text

2.

Topic: Three grounds for reconsideration, administrative material and quoted Bhageeratha result

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6; 7; 8

Paragraphs: SCR 379 G-383 C

Source role: judicial text

3.

Topic: Context, schedules, ships and reaffirmed section 32A interpretation

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: SCR 383 D-386 A

Source role: judicial text

4.

Topic: Clarificatory section 32A(2A) and administrative opinions

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: SCR 386 B-387 E

Source role: judicial text

5.

Topic: Different section 32AB scheme and limited circular relevance

Source url: [Open cited source](#)

Pdf pages: 12; 13

Paragraphs: SCR 387 F-388 F

Source role: judicial text

6.

Topic: Bhageeratha distinguished and final dismissal

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: SCR 388 F-389 C

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Unattributed order of the Court

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Constitution of India, Article 32; Finance (No. 2) Act, 1977, substitution/insertion effective 1 April 1978; Ninth Schedule (historical) and Eleventh Schedule, Income-tax Act, 1961

SPECIFIED COMPARISONS AND THEIR VERIFICATION LIMITS

1.

Status: verified bounded

Subject: Historical section 32A/32AB text, amendments and cutoff cautions

Source url: [Open cited source](#)

Pdf pages: 213; 214; 215; 216; 221; 222; 223; 224

SOURCE & VERIFICATION

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

Identified source rendition: 14 PDF pages; SHA-256 ce947efbaa56ca6d3fa5dca8e31a4acd23c1f292b82e0f65b119e47dee320773. Original bytes preserved. All 14 physical pages read. Complete unnumbered reasoned Court order begins physical page 4/SCR 379 B and ends physical page 14/SCR 389 B-C. Physical pages 1-3 and upper page 4 are reporter material. One unattributed order of Jeevan Reddy and Sen JJ.; no separate opinion or adjacent judgment.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: True; material primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; all authored opinions separately accounted for: True; material later treatment limits prominent: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

No individual assessment year is stated for this Article 32 petition. The order discusses the 1977 amendment effective 1 April 1978 and the different section 32AB scheme effective 1 April 1987; these dates are not invented assessment years for the petitioner.

One original Article 32 petition, printed on physical page 4. No lower-court appeal, companion Supreme Court proceeding or individual assessment is identified. Budharaja and Bhageeratha are cited earlier decisions, not proceedings disposed of by this order.

The preserved heading prints Builders Associations (plural); the familiar singular variant was also checked during identity dedup. Original bytes are unchanged.; Admission-stage dismissal is accompanied by a full reasoned merits discussion. It is not a non-speaking refusal.; The 1986 circular, 1984 Law Ministry view and 1987 ministerial answer are reproduced material; their separate originals were not newly authenticated.; The earlier Bhageeratha order is quoted as dismissing a special-leave petition; the discussion later calls it a Revenue appeal. Its section 32A wording issue was not actually decided, and it is not a connected proceeding disposed of here.; The historical compilation's notification footnote is not an independently read Gazette notification. Present eligibility and comprehensive subsequent treatment remain unverified.

STATUTORY SCOPE

No automatic Income-tax Act, 1961 to Income-tax Act, 2025 mapping and no present-law certification. Verify the statutory version and conditions for the relevant year.

LATER TREATMENT

Source checked 2026-10-05. not_verified. This review confirms the original order and a bounded historical statutory comparison. It does not certify a comprehensive later citator result. The circular is used only as reproduced and assessed in this judgment; its separate original was not authenticated.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 14](#)

SHA-256: ce947efbaa56ca6d3fa5dca8e31a4acd23c1f292b82e0f65b119e47dee320773

[official department hosted historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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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