

The Income Tax Appellate Tribunal, Hyderabad Special Bench, Hyderabad v. The Deputy Commissioner of Income-Tax (Asstts.) III, Hyderabad, Andhra Pradesh and Ors.

Civil Appeal Nos. 2039–2041 of 1996 / Arising from SLP(C) Nos. 12054–12056 of 1994

[1996] 1 SCR 630 | 1996-01-17

Whether the ITAT President could validly constitute a Special Bench administratively without a prior judicial reference, and how the Tribunal's separate natural-justice grievance should be dealt with after the Revenue had obtained a full merits hearing in the High Court.

255(1), 255(3) and 255(5), historical Tribunal-constitution framework | 115-J, underlying tax question expressly left undecided in this judgment

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

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

Procedural relief only; natural justice and tax merits must be separated

These three 1996 appeals were brought by the Tribunal and allowed only to the specified procedural extent. Section 115-J merits were reserved for delinked assessee proceedings; natural justice was not finally decided despite prima facie criticism of the hearing. Administrative Special Bench formation required bona fide, germane grounds and was not made immune from review. Do not use historical thresholds as current procedure. The report's 31.2.93 High Court date is contradicted by its judicial narrative. Related merits were addressed separately in Surana Steels (1999); comprehensive later treatment remains unverified. No costs were ordered throughout.

01 FACTS OF THE CASE

The Tribunal itself appealed against adverse findings concerning its functioning. Its Special Bench had decided three tax appeals of Surana Steels Pvt. Ltd., Binjusaria Metal Box Co. Pvt. Ltd. and Agroha Extraction Ltd. by common order dated 4 February 1993 on section 115-J. The Revenue's three writ petitions were heard with Income Tax Reference No. 126 of 1992. The High Court's common judgment, identified in the judicial narrative as 31 December 1993, favoured the Revenue and criticised both the constitution of the Special Bench and the conduct of its hearing (physical pages 5–7).

The assessee challenges were delinked from the Tribunal's proceedings by order of 3 April 1995. These three Supreme Court appeals therefore concerned the Tribunal's procedural and institutional grievances, not the true construction of section 115-J. The actual ITAT appeals were numbered 1845/Hyd/90, 811/Hyd/92 and 822/Hyd/92. Assessment years printed for four other proposed reference matters are not assigned to these three assessees (physical pages 6–7 and 12–13).

The Andhra Pradesh Tax Bar Association had requested uniform resolution of conflicting Tribunal decisions. Two Tribunal members recommended a Special Bench through their 25 September 1992 communication. The Supreme Court sought further evidence when the initially proposed four matters appeared different from the three now in issue. An affidavit, circular and cause list showed that nine matters, including the relevant cases, had been listed. Four originally proposed matters were subsequently released because they raised additional issues beyond the common questions (physical pages 10–14 and 19–21).

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

02 DISCUSSION BY THE HON'BLE COURT

On Point No. 1, the Court expressly declined a final ruling on breach of natural justice. The Revenue had already been fully heard and succeeded on the tax issue in the High Court, while the assessee challenges were separately pending. Nevertheless, the Court considered the High Court's criticism *prima facie* justified on the peculiar facts: after the designated departmental representative was hospitalised, a short adjournment to arrange representation could have been granted, and written submissions should have been considered rather than brushed aside. It also stressed the Revenue's responsibility to make alternative arrangements instead of indefinitely delaying a specially convened Bench. These were qualified observations, not a final general rule about adjournments or a finding that the earlier hearing was unobjectionable (physical pages 9–10).

On Point No. 2, sections 255(1) and 255(3) conferred an administrative power on the President to constitute Benches, including a Special Bench of three or more members with at least one judicial and one accountant member. A Bench's judicial reference under Regulation 98(A), framed in the setting of section 255(5), was one route to the President; it was not an exclusive prerequisite. The President could act independently, even *suo motu*, on appropriate information and germane grounds. The members' September communication was a recommendation to exercise that administrative power, not a judicial reference governed by Regulation 98(A) (physical pages 15–19).

The Court rejected the High Court's substitution of its view for the President's *bona fide* decision. Its restrictive statement about Article 226 review must be read with the immediately following recognition that a constitution order could be shown to be unreasonable, capricious or *mala fide*. Here no *mala-fides* allegation had been made against the President, and conflicting decisions of the Madras single-member and Hyderabad Division Benches provided a rational basis for a Special Bench. The additional record explained why the actual three appeals were included and disproved the suggestion of arbitrary selection (physical pages 18–21).

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

03 JUDICIAL DECISION

All three Tribunal appeals were allowed to the stated extent. Point No. 2 was answered affirmatively; Point No. 1 was held not to survive for final decision. The High Court judgment and order on those two procedural points were quashed and its writ petitions stood dismissed to that extent. The Supreme Court expressly kept the section 115-J construction question open for the delinked assessee proceedings. There was no order as to costs throughout (physical page 21/SCR 650).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: ITAT on the Special Bench-constitution grievance; no tax-merits winner in this judgment

Three appeals allowed to the specified extent; High Court procedural findings set aside; section 115-J merits reserved; no costs throughout

Final procedural judgment; natural-justice issue not finally adjudicated and tax merits expressly excluded

Validates this bona fide administrative constitution of a Special Bench. It neither confers arbitrary allocation power nor decides the assessee's section 115-J deductions or universal present-day Tribunal procedure.

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

05 AKHB REVIEW POINT

Keep three propositions separate. First, the President's statutory administrative power was independent of a judicial reference. Second, that power required legitimate grounds; the decision does not immunise unreasonable, capricious or mala fide allocation. Third, an allowed appeal did not mean the Supreme Court approved the refusal of adjournment or rejected the High Court's tax analysis on its merits. The operative relief was expressly confined, and the natural-justice comments remained prima facie. The historical one-lakh single-member threshold quoted in the source is not a verified current procedural limit.

For readers following the tax issue, a bounded later primary-source check avoids leaving the historical reservation misleadingly unresolved. The complete 13 April 1999 judgment in *Surana Steels Pvt. Ltd. Etc. Etc. v. Deputy Commissioner of Income Tax and Ors.*, [1999] 2 SCR 589, separately decided the related section 115-J/Companies Act section 205(1) proviso (b) controversy. It treated loss as the amount after providing depreciation, compared it with depreciation under the lower-of-the-two rule, and set aside the High Court order in the identified successful assessee appeals, expressly including *Surana Steels* and *Binjusaria Metal Box*. That is a later tax-merits judgment, not a holding to be attributed retrospectively to this 1996 institutional appeal, and not proof of the final procedural history of every associated party.

The 1999 judgment is recorded only as related merits history. It does not constitute comprehensive later treatment of the 1996 administrative-power or natural-justice reasoning. Nor does either historical decision certify current section 115JB computation, current Tribunal rules, or a 2025 Act correspondence.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, three-appeal group and inconsistent High Court date

Source url: [Open cited source](#)

Pdf pages: 1; 5; 6; 7

Paragraphs: Cover; appeal-origin line; Background Facts

Source role: reported metadata and judicial text

2.

Topic: Natural-justice issue not finally determined; qualified hearing observations

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Point No. 1

Source role: judicial text

3.

Topic: Requests for Special Bench; proposed and actual cases

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13; 14

Paragraphs: Point No. 2; reproduced correspondence and High Court passages

Source role: judicial text

4.

Topic: Historical section 255 and Regulation 98(A); independent administrative route

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17; 18; 19

Paragraphs: Point No. 2; statutory extracts and ensuing analysis

Source role: judicial text

5.

Topic: Limits of administrative power and record explaining actual allocation

Source url: [Open cited source](#)

Pdf pages: 18; 19; 20; 21

Paragraphs: Point No. 2

Source role: judicial text

6.

Topic: Precisely limited operative relief, reserved tax question and costs

Source url: [Open cited source](#)

Pdf pages: 21

Paragraphs: Final unnumbered judicial paragraphs

Source role: judicial text

7.

Topic: Later related merits issue and historical section 115-J regime

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6; 7

Paragraphs: Unnumbered judicial text

Source role: related later merits history

8.

Topic: Later loss/depreciation reasoning and differentiated dispositions

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: Unnumbered judicial text

Source role: related later merits history

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.B. Majmudar, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER TREATMENT EVENTS AND THEIR PRECISE LIMITS

1.

Date: 1999-04-13

Case id: sc-1999-04-13-surana-steels-section-115j

Treatment: Related section 115-J merits controversy decided separately; no treatment of this procedural ratio inferred

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 9; 10; 11; 12

Scope: The later judgment allows identified assessee appeals, including Surana Steels and Binjusaria, on the historical loss/depreciation construction. It is not a later constitution-of-Bench decision and does not establish disposition of every associated party from the 1996 record.

SOURCE & VERIFICATION

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

Identified source rendition: 21 PDF pages; SHA-256

27598857ee2ff429996ad3fa7e080ac9a7fc5b60c746b72c246f133cdd5ae6b6. Original bytes preserved.

Complete judicial text physical pages 5–21/SCR 634–650; Background Facts, Rival Contentions, Point Nos. 1 and 2 and operative conclusion. Headnote at physical pages 1–5 excluded from independent judicial findings.

[Open cited source rendition](#)

Physical page 5 reports the impossible High Court date 31.2.93; the judicial account at page 6 states 31 December 1993. The later related 1999 source's appeal-origin line also states 31.12.93. This note uses the judicial narrative and preserves the printed discrepancy.; The source's appeal-origin line prints W.P. Nos. 5408, 6102-41 of 1993. The ambiguous latter string is not silently expanded into a definitive set of High Court case numbers.; Only Tribunal SLPs 12054–12056 of 1994 became these three appeals. The assessee's separately identified challenges were delinked; they must not be combined into an undifferentiated 1996 tax-merits appeal group.; Assessment years stated at physical page 12 concern other proposed reference matters. They are not reliable metadata for the three actual assessee appeals in this judgment.; The source alternates between describing nine cases and four original matters, one of which lists two ITA numbers. This note preserves the Court's grouped description and does not infer an exhaustive numerical case inventory.; The section 115-J questions reproduced from correspondence at physical pages 11–12 and the section 143(1)(a) mention in the affidavit discussion are background; they are not Supreme Court tax holdings in this appeal.; At physical page 18 the text once says Section 226 of the Constitution but immediately identifies Article 226. It is treated as a printed wording error, not a distinct constitutional provision.; Read the Article 226 passage at physical page 18 with page 19's express recognition of unreasonable, capricious or mala fide administrative exercise. The case does not eliminate judicial review or authorise arbitrary Bench selection.; The prima facie natural-justice criticism at pages 9–10 survives as a qualified observation; the operative order says that point did not survive for decision, not that no hearing defect had occurred.; The final reporter label Appeals disposed of is less precise than the judicial order allowing all three appeals to the stated extent. Likewise the related 1999 source's generic final label Appeal dismissed does not override its differentiated judicial dispositions.

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. Comprehensive later treatment of the 1996 procedural holding remains not_verified. A full-text bounded check of Surana Steels, 13 April 1999, verifies related tax-merits history only, not approval, reversal or exhaustive treatment of this Tribunal-constitution judgment.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 21](#)

SHA-256: 27598857ee2ff429996ad3fa7e080ac9a7fc5b60c746b72c246f133cdd5ae6b6

[later related merits judgment - PDF pages: 12](#)

SHA-256: cfd723f7401a0b143acd4cadf45b97c436c4084dc60a261c6b48b6d86fc69954

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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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