

Commissioner of Income Tax, Kerala v. The Kilkotagiri Tea and Coffee Estate Co. Ltd.

Civil Appeal No. 190 of 1979

[1996] 2 SCR 601 | 1996-02-13

Whether, at the second computation under historical section 33A(1)(b), a tea grower could include qualifying first- and second-year planting costs that it had not claimed and that had not been allowed at the first stage, rather than being restricted to costs incurred later.

33A(1)(a)–(b) (historical development allowance) | 33A(2)–(3) | 33A(7) | 256(1)

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

Assessment years: 1971-72

Historical two-stage allowance; no double relief and unresolved source figures

Under historical section 33A, unclaimed early planting costs could enter the second-stage computation, with allowance already allowed deducted and statutory cost/reserve conditions retained. This is not a general deferred-deduction or current-rate ruling. The operative question uses AY 1971-72, but the opening sentence prints AY 1970-71; the source also contains inconsistent monetary entries. Do not silently repair the chronology or publish an unreconciled aggregate as an award. Later treatment and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The respondent grew and manufactured tea. It cleared land and planted tea bushes in July 1967, within an accounting year ending 31 October 1967; expenses for that year and the next year ending 31 October 1968 entered the initial section 33A(1)(a) computation for AY 1969-70. The referred question concerns AY 1971-72 and a claim for development allowance at 50% on Rs 71,500 of those earlier costs. The opening sentence nevertheless calls the case one for AY 1970-71 and states an accounting period ending 31 March 1971. This source inconsistency is preserved; AY 1971-72 is used here because it appears in the referred question, the fourth-year table and the operative account of the ITO's assessment (physical pages 3-5 / SCR 603-605).

The Tribunal's findings, quoted by the Supreme Court, record 13.63 hectares of 1967 planting, first- and second-year expenses of Rs 44,525 and Rs 45,275, totalling Rs 89,800. The assessee did not claim the full initial allowance: the table shows Rs 18,300 of cost used for a Rs 9,150 allowance, leaving Rs 71,500 unclaimed. The preceding narrative links the restriction to a total allowance claim of Rs 40,000, including Rs 30,846 for a separate 1965 clearing; that subtraction produces Rs 9,154 rather than the table's Rs 9,150. The figures are source data, not a corrected computation in this note (physical page 4 / SCR 604).

At the later stage the quoted table records Rs 26,832 and Rs 35,172 of third- and fourth-year costs, totalling Rs 62,004, and adds the previously unclaimed Rs 71,500. A separate 1969 clearing of 3.59 hectares was at its first-stage computation in AY 1971-72. The source inconsistently gives its expenses as Rs 33,861 in prose and Rs 33,864 in the table; it prints a combined cost of Rs 1,67,365, a 50% claim of Rs 83,682 and a reserve of Rs 70,000. These combined figures include both clearings and are not the disputed Rs 71,500 alone (physical pages 4-5 / SCR 604-605).

The ITO allowed the claim for the 1969 clearing but refused to bring the unclaimed early costs of the 1967 clearing into the later computation. The AAC and Tribunal considered that costs of the first two years had to be claimed at the first stage, with the later stage limited to subsequent costs. The Kerala High Court reversed that construction on the section 256(1) reference, answering the question in the negative and for the assessee. Revenue appealed against its judgment dated 1 December 1977 in I.T.R. No. 11 of 1976 (physical pages 3 and 5-6 / SCR 603 and 605-606).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court treated the two-stage statutory mechanism as decisive. The historical section 33A(1) quotation applied to tea bushes planted on land in India owned by an assessee carrying on the business of growing and manufacturing tea in India. It provided a 50% allowance for tea planting on land not previously planted with tea or on abandoned land, and 30% for replacement of dead or permanently useless bushes. Clause (a) made the first computation by reference to costs incurred in the land-preparation previous year and the next previous year, with deduction in respect of the latter. Clause (b) required the allowance to be computed again by reference to actual planting cost, with only the excess over the amount allowed under clause (a) deductible in respect of the third succeeding previous year. Thus the second stage did not merely add costs incurred after the first computation, and it did not confer the full allowance twice (physical pages 6–8 / SCR 606–608).

The actual-cost definition in section 33A(7) covered land preparation; seeds, cuttings and nurseries; planting/replanting; and upkeep over the preparation year and three successive previous years. Costs met directly or indirectly by another person or authority, including subsidy or financial assistance, reduced the relevant cost base. The four-year structure reflected the duration of plantation work and related adjustments. Section 33A(3) additionally required the prescribed particulars and a reserve equal to 75% of the development allowance actually to be allowed. The Court found that the assessee had made sufficient reserves for the claim it made at the first stage; it did not dispense with the reserve requirement (physical pages 7–8 / SCR 607–608).

The obligation to compute the allowance again meant that actual costs had to be recomputed, notwithstanding the first-stage computation and allowance. Nothing required every qualifying first- and second-year cost to have been claimed at the first opportunity on pain of forfeiture at the statutory second stage. Accordingly, the unclaimed Rs 71,500 could be brought into the fresh computation under clause (b), subject to the statutory netting against the allowance already allowed and the other conditions. The Court upheld the High Court's construction of this special provision; its references to encouraging expansion of the tea industry explained the scheme rather than creating a free-standing equitable deduction (physical pages 8–9 / SCR 608–609).

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

03 JUDICIAL DECISION

Revenue's Civil Appeal No. 190 of 1979 was dismissed. The Court upheld the High Court's negative answer to the referred question in favour of the assessee: qualifying first- and second-year costs previously neither claimed nor allowed could enter the second-stage section 33A(1)(b) computation. Each party was to pay and bear its own costs. The operative order does not supply a newly reconciled numerical assessment or award the whole combined claim afresh (physical page 9 / SCR 609).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee (Kilkotagiri Tea and Coffee Estate Co. Ltd.)

Revenue's Civil Appeal No. 190 of 1979 dismissed; High Court's negative reference answer for the assessee upheld; each party to bear its own costs

Final reasoned merits determination of the historical second-stage development-allowance question

The unclaimed early costs enter the statutory second computation, with the allowance already allowed deducted. The judgment neither allows double relief nor establishes a general right to defer ordinary deductions, reopen completed assessments, ignore reserve conditions or claim under a current tea-plantation regime.

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

05 AKHB REVIEW POINT

Prepare a clearing-by-clearing cost schedule across the four statutory previous years. Identify eligible land and planting dates, qualifying costs, subsidy or other third-party funding, the first-stage amount actually allowed, the second-stage recomputation, prescribed particulars and the required reserve. The operative comparison is the recomputed allowance against the amount previously allowed, not a fresh deduction of the full four-year allowance without credit for earlier relief. This case turns on costs neither claimed nor allowed at the first stage.

Keep the 1967 clearing's disputed Rs 71,500 separate from the later Rs 62,004 of costs and the separate 1969 clearing. Fifty per cent of Rs 71,500 is Rs 35,750 as arithmetic, but the Supreme Court did not pronounce a fresh quantified tax demand or an independently reconciled aggregate allowance. Check the source's inconsistent Rs 33,861/Rs 33,864 entries, combined total and earlier Rs 9,150/Rs 9,154 difference against the underlying records before using a final figure.

The decision applies a historical, date-sensitive section 33A mechanism. The quoted proviso required planting to commence after 31 March 1965, and for replacement planting also to be completed before 1 April 1970. Those are the conditions reproduced in this judgment; later statutory changes have not been independently verified. Neither the timing concession nor the historical 50% and 30% rates should be advertised as current deductions. The printed AY discrepancy must also remain visible rather than being silently repaired.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, single appeal, High Court provenance and conflicting AY labels

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered judicial text; physical page numbers refer to this exact rendition

Source role: reported metadata and judicial text

2.

Topic: Initial computation, quoted expenditure table and reserve-linked restriction

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered judicial text; physical page numbers refer to this exact rendition

Source role: judicial text

3.

Topic: Later computation, separate 1969 clearing and source arithmetic discrepancies

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered judicial text; physical page numbers refer to this exact rendition

Source role: judicial text

4.

Topic: ITO, AAC, Tribunal and High Court positions

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text; physical page numbers refer to this exact rendition

Source role: judicial text

5.

Topic: Historical section 33A(1) rates, staged computation and eligibility proviso

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: Unnumbered judicial text; physical page numbers refer to this exact rendition

Source role: judicial text

6.

Topic: Four-year actual cost, subsidy reduction and 75% reserve condition

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Unnumbered judicial text; physical page numbers refer to this exact rendition

Source role: judicial text

7.

Topic: Previously unclaimed costs admissible at second stage; no duplicate allowance

Source url: [Open cited source](#)

Pdf pages: 6; 8; 9

Paragraphs: Unnumbered judicial text; physical page numbers refer to this exact rendition

Source role: judicial text

8.

Topic: Revenue appeal dismissed, negative reference answer and own costs

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: Unnumbered judicial text; physical page numbers refer to this exact rendition

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Suhas C. Sen, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (historical provisions)

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

eaabff2b120d4ad0cdd70f12cfda1e7143a496c2b1cecd3a869bf7542e8066b5. Original bytes preserved.

Complete judicial text physical pages 3–9 / SCR 603–609; editorial headnote pages 1–3 separated. The opening AY inconsistency and the quoted Tribunal table are retained as source discrepancies. Historical section 33A clauses (a)/(b), reserve and cost conditions, and final appellate disposition independently identified.

[Open cited source rendition](#)

The opening judicial sentence on physical page 3 / SCR 603 prints AY 1970-71 and accounting year ended 31 March 1971. The referred question on the same page, the table and the ITO narrative use AY 1971-72. The note indexes the operative referred year and expressly preserves the opening inconsistency; it does not treat 1970-71 as a separately decided appeal.; The source identifies earlier clearing costs by 1966/67 and 1967/68 and describes July 1967 planting in the accounting year ended 31 October 1967, followed by a year ended 31 October 1968. Do not silently convert those printed cost-year labels into a different assessment chronology. AY 1969-70 is the earlier first-stage computation, not a second Supreme Court appeal.; The quoted first-stage narrative gives Rs 40,000 less Rs 30,846, which is Rs 9,154, while its table gives Rs 18,300 cost and Rs 9,150 allowance. The Rs 4 difference is in the printed source; the Court does not reconcile it.; For the separate 1969 clearing, SCR 604 gives Rs 33,861 in prose but SCR 605 gives Rs 33,864 in the table. The printed aggregate Rs 1,67,365 matches the prose amount with Rs 71,500 and Rs 62,004; the table rows sum to Rs 1,67,368. Half the printed aggregate is Rs 83,682.50, while the table prints Rs 83,682. Preserve the discrepancy/rounding without inventing the intended figure.; Rs 71,500 is qualifying expenditure sought to be included in the second computation, not the allowance itself. Rs 83,682 is the quoted combined claim for two clearings, not the Supreme Court's award of the disputed amount. The source prints a Rs 70,000 reserve at the second stage; the earlier Rs 40,000 is a total allowance claim for which reserve was provided, not an express finding that the reserve itself was Rs 40,000.; Clause (a)'s statutory quotation on SCR 606 expressly includes both the preparation year and the next previous year. Read the shortened explanatory passage on SCR 608 with that quotation and the full two-stage analysis, rather than reducing stage one to the preparation year alone.; The printed historical statutory rates, eligibility dates, subsidy reduction and reserve conditions are retained. No separate primary statute or later judgment has been read for this note, and current law/2025 mapping remain unverified.

The merits concern historical section 33A's staged tea-planting development allowance, with the section 33A(7) cost definition and section 33A(3) conditions. Section 33A(2) is described as providing set-off/carry-forward, but no separate carry-forward dispute is decided. Section 256(1) is procedural. No section 37, modern plantation allowance or general deferred-expense deduction is inferred.

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. Later judicial treatment has not been independently verified. Precedents discussed inside this judgment are distinguished from later treatment of this judgment.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 9](#)

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