

Commissioner of Income Tax v. M/s. Narang Dairy Products

Civil Appeal No. 388 (NT) of 1978 / Arising from SLP(C) No. 3204 of 1977

[1996] 2 SCR 1168 | 1996-02-28

Whether the manufacturer's three-year lease with renewal or purchase provision was an otherwise transfer justifying withdrawal of the historical development rebate during the statutory retention period.

33(1)(a) | 34(3)(b) | 2(47), contextual discussion | 155(5), statutory cross-reference | 256(1) | 256(2)

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

Assessment years: 1965-66

Development-rebate clawback does not govern every leasing claim

This manufacturer's purchase-linked lease during the retention period justified historical rebate withdrawal. Shaan Finance later distinguished Narang for pure machinery-hiring businesses under section 32A. No general rule denying depreciation to all lessors or capital-gains charge on every lease was decided. The rebate figures, quoted-definition limitation and later discontinuance are preserved; comprehensive treatment remains unverified.

01 FACTS OF THE CASE

The milk-powder manufacturer received development rebate of Rs 1,00,093 for AY 1965-66 under an assessment dated 29 June 1968. Part of the machinery was later sold, leaving machinery associated with rebate of Rs 85,222. On 27 August 1969 it let that remaining machinery to Hindustan Lever for three years, with renewal or outright-purchase provision. The ITO's amendment order of 30 March 1970 withdrew the entire Rs 1,00,093 (physical pages 3–4).

The Tribunal held the lease involved no relevant transfer, following its decision for another year. It and the Allahabad High Court declined Revenue's reference requests. Given the long pendency, the Supreme Court withdrew the entire matter from the High Court and decided the issue itself rather than ordering another reference (physical pages 3–4).

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

02 DISCUSSION BY THE HON'BLE COURT

For this manufacturer's development rebate, ownership and use in its own business were linked conditions. Letting the machinery to another during the eight-year period ended its exclusive possession and enjoyment for its milk-powder business. Although there was no sale or complete extinguishment of its title, the arrangement amounted to otherwise transferring the machinery in the context of sections 33(1)(a) and 34(3)(b) (physical pages 6–8).

The Court treated section 2(47) as inclusive. Even assuming the transaction did not satisfy that definition, the contextual and ordinary meaning of transfer could govern the particular clawback provision. It did not decide a capital-gains charge on this lease or a universal rule that every lessor ceases using an asset in business (physical pages 7–8).

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

03 JUDICIAL DECISION

The appeal was allowed without costs. The High Court and Tribunal decisions were set aside, Revenue's question was answered in the negative, and the ITO's withdrawal under section 34(3)(b) was upheld. The earlier sale and the lease together explain the full rebate withdrawal; the disputed reference question focused on the leased part. The Court made no new computation (physical page 8).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Appeal allowed; Tribunal and High Court set aside; rebate withdrawal sustained; no costs

Final historical development-rebate clawback ruling

Specific manufacturer's machinery and purchase-linked lease during the prohibited period; no general disallowance of leasing-business depreciation or investment allowance.

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

05 AKHB REVIEW POINT

Identify the relief granted, its continued-use conditions, the assessee's actual business and the terms of the later transaction. Retention of title alone did not save this old development rebate, but the decision must not be detached from the manufacturer's business and the renewal/purchase arrangement.

The later Shaan Finance judgment was checked at physical pages 8–10. It expressly distinguished Narang when allowing investment allowance to machinery-hiring businesses under section 32A, relying on the differing business and pure-hire facts. Shaan's compressed account refers to section 2(47); Narang's own reasoning instead preserves an even-assuming alternative and grounds otherwise transfer in the clawback context. Neither should be flattened into a universal rule for all leases.

The checked 2011 compilation records discontinuance of general development rebate for machinery installed after 31 May 1974, with specified limited transitional exceptions. This is historical relief, not a current incentive or a 2025 Act mapping. Comprehensive later treatment remains unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, rebate figures, lease terms and reference posture

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3; 4

Paragraphs: Editorial headnote and case metadata on physical pages 1–3; judicial opening and paragraphs 2–4 on physical pages 3–4

Source role: reported metadata and judicial text

2.

Topic: Withdrawal for direct final adjudication

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: Judgment paragraph 3

Source role: judicial text

3.

Topic: Provisions reproduced and retention-period issue

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: Judgment paragraphs 5–7

Source role: judicial text

4.

Topic: Contextual transfer, upheld withdrawal and costs

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Judgment paragraph 7 and concluding continuation

Source role: judicial text

5.

Topic: Later distinction for machinery-hiring business

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Unnumbered judicial text

Source role: direct later distinction

6.

Topic: Historic discontinuance and limited exceptions

Source url: [Open cited source](#)

Pdf pages: 231

Paragraphs: Section 33(5), footnote 96

Source role: bounded historical statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K.S. Paripoornan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 8 PDF pages; SHA-256

e4b6b69ad40b4281d1099d462213cefe6109cbff1f56807993cac02a2c7fe99b. Original bytes preserved.

Complete judicial text physical pages 3–8/SCR 1170–1175, unnumbered opening followed by paragraphs 2–7 and concluding continuation; direct adjudication after withdrawing matter from High Court.

[Open cited source rendition](#)

The source cover misspells Jeevan Reddy as Raddy. The note uses the identified judge's name without changing the original.; Rs 85,222 is the development rebate associated with the remaining machinery, not the machinery purchase price. Rs 1,00,093 is the full rebate withdrawn after the sale and lease events.; AY 1970-71 appears only as the Tribunal's earlier decision it followed; the present appeal expressly concerns AY 1965-66.; The reproduced section 2(47) contains a broader compilation of subclauses, including immovable-property provisions. It is not certified here as the exact statutory wording in force in 1965-66; the operative reasoning is contextual, not a decision under those immovable-property limbs.; The headnote cites Blue Bay at 161 ITR 1 while the judicial ending gives 166 ITR 1. That report is not independently checked and no bibliographic correction is silently imposed.; The later Shaan comparison does not state that Narang was wholly overruled; it identifies the business and transaction distinctions expressly made there.

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 remains not verified. Shaan Finance pages 8–10 were directly checked for its express distinction; the 2011 statutory footnote was separately checked for historical discontinuance.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 8](#)

SHA-256: e4b6b69ad40b4281d1099d462213cefe6109cbff1f56807993cac02a2c7fe99b

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

SHA-256: f8f7962b6cc398c6d07515d6a92fc0384da496eb5c69ce88e60861068d1be03d

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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