

Commissioner of Income Tax, Bombay Etc. v. M/s. Mafatlal Gangabhai and Co. (P) Ltd. Etc.

Civil Appeal No. 2215 of 1978 Etc. / Civil Appeal No. 5946 of 1994 / Appeal arising from an unnumbered SLP in the judicial opening

[1996] 3 SCR 227 | 1996-03-12

Whether cash allowances paid directly to employees fell within the historical perquisite limbs of sections 40(a)(v) and 40A(5)(a)(ii).

40(a)(v), historical | 40A(5)(a)(i)–(ii), historical | 40A(5), Explanation 2 | 256(1) | 256(2)

Two-judge bench | B.P. Jeevan Reddy, J. | M.K. Mukherjee, J.

Assessment years: 1971-72, 1982-83

Historical perquisite distinction did not remove salary limits

Direct cash paid to employees was outside the specified old perquisite limbs, but remained salary subject to applicable ceilings. Third-party payments of employee obligations were distinguished. The provisions were later replaced or omitted, and no employee exemption or current payroll rule was decided. Only the stated Commonwealth passage was checked for later treatment; the ungranted question and unnamed appeal-year mapping remain outside this note.

01 FACTS OF THE CASE

CA 5946/1994 (AY 1982-83) concerned cash house-rent and conveyance allowances and medical reimbursement paid by a limited company to employees. The ITO disallowed them under section 40A(5), but the appellate authorities accepted that direct cash payments were not perquisites for that limb. The Tribunal and Delhi High Court refused Revenue's reference applications (physical page 8).

CA 2215/1978 (AY 1971-72) concerned direct cash payments to directors, including house-rent, conveyance and furniture allowances, under the earlier section 40(a)(v). The Bombay High Court refused reference on questions 1 and 3, but Supreme Court leave was limited to question 1. The Court heard these as part of a wider batch. Its judicial opening also grants leave in an SLP without identifying that petition or its resulting appeal number (physical pages 3 and 8–9).

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

02 DISCUSSION BY THE HON'BLE COURT

The statutory wording distinguished an expenditure providing a benefit, amenity or perquisite from a direct cash payment to the employee. The words concerning convertibility into money supported that distinction. The Court nevertheless expressly stated that the direct cash payments were salary, subject to the applicable salary limits or ceilings; it did not exempt them from every disallowance (physical pages 9–11).

Although section 40A(5) had a wider structure and a separate salary limb, its perquisite limb was materially similar to section 40(a)(v). Payments discharging an employee's obligation meant payments to third parties on the employee's account, not direct cash paid to the employee. Thus cash as the payment medium was not alone decisive; the recipient and the relevant statutory limb mattered (physical pages 11–12).

The Court rejected the Kerala Full Bench view in *Commonwealth Trust* and agreed with the other cited High Courts on this issue. The section 17 definition was used only as a broad interpretive aid for the employer-disallowance question; this ruling supplies no employee-side exemption (physical pages 10–12).

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

03 JUDICIAL DECISION

The appeals were dismissed without costs. Direct cash payments to employees were outside section 40(a)(v) and section 40A(5)(a)(ii), as applicable, while the Court expressly preserved their salary character and applicable salary ceilings. It made no quantified deduction or tax computation and did not decide question 3 in CA 2215/1978 (physical pages 8 and 11–12).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee employers on the historical perquisite classification

Revenue appeals dismissed; no costs

Final interpretation of the historical perquisite limbs, with salary-limit qualification

No blanket deduction of all cash remuneration, no employee-side exemption and no decision on the ungranted reference question.

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

05 AKHB REVIEW POINT

Identify who received the payment and which statutory limb is being applied. Direct cash to an employee differed from paying a landlord or another creditor for that employee, even where the commercial purpose appeared similar. Preserve the Court's express salary-limit qualification; the decision is not permission to avoid all remuneration ceilings by paying cash.

The judgment itself records replacement of section 40(a)(v) by section 40A(5), and omission of the latter regime from 1 April 1989. Its historic numerical ceilings must not be advertised as current limits. The bounded later Commonwealth Trust passage at SCR 184 expressly applies Mafatlal to reverse the adverse High Court answer and resolve the house-rent question for the assessee and against Revenue; its separate capital-gains issue does not expand this allowance ruling. Comprehensive later treatment and modern salary/perquisite rules remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, two specified appeals, years and leave limits

Source url: [Open cited source](#)

Pdf pages: 1; 3; 8; 9

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Historical statutory structure, salary and perquisite limbs and omission

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6; 7; 8

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Direct cash distinction and retained salary ceilings

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Third-party obligations, rejected High Court view and final dismissal

Source url: [Open cited source](#)

Pdf pages: 12

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Later express application on Commonwealth house rent

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Unnumbered judicial text

Source role: direct later treatment

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

ASSESSMENT-YEAR SCOPE AND LIMITS OF THE OPERATIVE DIRECTION

AY 1971-72 is expressly assigned to CA 2215/1978; AY 1982-83 to CA 5946/1994. Other batch years and the new appeal number are not supplied.

SOURCE & VERIFICATION

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

Identified source rendition: 12 PDF pages; SHA-256

2afcefa5bace16263203ce6350c8169a19e0e2f3c2487e472ed683d16166794a. Original bytes preserved.

Complete judicial text physical pages 3–12/SCR 229–238, with two expressly described appeals and remaining unnamed batch appeals.

[Open cited source rendition](#)

The known two assessment years belong to different identified appeals under different historical provisions; they are not assigned to every unnamed companion.; The closing wording excludes direct cash payments from the perquisite limb, while page 11 expressly treats them as salary subject to applicable limits. The broad first-page heading must be read with that qualification.; Question 3 from the Bombay reference refusal was not within the Supreme Court leave described on page 8. No result on it is inferred.; The quoted historic ceilings and definitions were reproduced to explain the distinction. No conclusion about the precise ceiling calculation for an unstated employee or present-year statute is supplied.; The later Commonwealth report has a reversed house-rent headnote, but its judicial page 6 expressly follows this decision for the assessee. Only that judicial passage supports the bounded later check.; The separately quoted section 17 definition is an interpretive aid; the Court says it need not be strictly identical to the employer-disallowance provision. No blanket employee exemption follows.

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 unverified. Commonwealth Trust page 6 was directly checked for application to its house-rent question. The full earlier batch review of that case is separate; no further citator conclusion is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 12](#)

SHA-256: 2afcefa5bace16263203ce6350c8169a19e0e2f3c2487e472ed683d16166794a

[later reported judgment direct treatment - PDF pages: 22](#)

SHA-256: 72cebc7c9b08086a8f11a9a8d7dd8f91d5429e43950d6c50b213c2975a1d270d

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