

M/s. J.B. Boda and Co. Pvt. Ltd. v. Central Board of Direct Taxes, New Delhi

Civil Appeal No. 933 of 1989

[1996] Supp. 8 SCR 145 | 1996-10-30

Whether retaining dollar-denominated reinsurance brokerage from gross premia with RBI concurrence satisfies historical section 80-O's convertible-foreign-exchange receipt condition, and whether CBDT's refusal of agreement approval could stand.

80-O

2-judge bench; one opinion | B.P. Jeevan Reddy, J. | K.S. Paripoornan, J.

Assessment years: 1982-83, 1983-84, 1984-85

IMPORTANT: HISTORICAL SECTION 80-O, LIMITED RECEIPT HOLDING AND PROCESSING-ONLY RELIEF

Boda decided the receipt method for an RBI-permitted, dollar-denominated reinsurance brokerage adjustment under the historical section 80-O. It directed CBDT to process the agreements; it did not award a quantified deduction or refund. Ramnath (2020) expressly distinguished this payment-method issue from whether other services qualify. The official departmental section 80-O text labelled 2024 (No. 2) denies the deduction from AY 2005-06 onward. The preserved target is an eSCR public-mirror report, not an independently authenticated signed original. Comprehensive later treatment, present applicability, the full historical legislative chain and Income-tax Act 2025 mapping remain NOT VERIFIED.

01 FACTS OF THE CASE

The appellant was an Indian private company acting as reinsurance broker. It arranged placement of part of insurance risks with foreign reinsurers, directly or through overseas brokers, and earned a percentage of the premium. The report describes commissions generally as 3–6%. For ONGC offshore oil and gas operations insured with United India Insurance Company, it supplied Sedgwick Offshore Resources Ltd., London with the risk particulars, premium, coverage period and proportion to be reinsured. Sedgwick obtained foreign-underwriter confirmations. The report's initial example mentions nineteen months from 1 March 1980; its later remittance exhibit concerns an August 1982–January 1984 policy and December 1983–January 1984 remittance period. These separate temporal recitals are preserved, not collapsed into one policy period (paragraph 1; physical 3–7/SCR 147–151).

The Indian ceding insurer paid the premium in rupees to Boda. Boda then submitted a foreign-currency remittance statement, Form A-2 and an auditor's certificate to the Reserve Bank of India. With RBI permission it remitted the net foreign premium after retaining the brokerage due from the foreign party, both amounts being expressed in US dollars. The exhibited transaction shows gross premium US\$1,060,891.68, brokerage US\$71,004.48 and net remittance US\$989,887.20, with remittance on 11 January 1984 stated in the narrative. The net figure is a premium remittance, not Boda's fee, notwithstanding the narrative's isolated description of it as a fee. The rupee sum of six lakhs occurs only in the quoted High Court account and is not independently reconciled to a currency conversion (paragraph 1; physical 4–8/SCR 148–152).

Boda sought CBDT approval of its Sedgwick arrangements for section 80-O in relation to AYs 1982–83, 1983–84 and 1984–85, treating retention of foreign-currency brokerage as receipt in convertible foreign exchange. By communications dated 11 March 1986 the Board refused, saying that the income was generated in India and was not received in convertible foreign exchange. A request for review failed. The Delhi High Court dismissed C.W.P. No. 3086 of 1987 on 29 October 1987, holding that retention was insufficient because the assessee must receive foreign exchange from abroad. Civil Appeal No. 933 of 1989 challenged that judgment. There is one appeal and one authored opinion, not a separate Supreme Court appeal for each assessment year (physical 3,7–8).

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

02 DISCUSSION BY THE HON'BLE COURT

K.S. Paripoornan J., for the two-judge bench, identified the question as the proper construction of section 80-O's foreign-exchange receipt condition. The quoted provision covers specified royalty, commission, fees and similar receipts from a foreign Government or enterprise for stated overseas uses of know-how or technical services, subject to approval and receipt or bringing-in of convertible foreign exchange in accordance with foreign-exchange law. It reproduces a 50% deduction and relevant definitions. This is the statutory formulation used in the report; its Chief Commissioner/Director General approval wording is not independently authenticated here as the exact consolidated text for each of AYs 1982-83 to 1984-85, in which the disputed decisions were made by CBDT (paragraph 2; physical 8-9/SCR 152-153).

The Court's question was concrete: where both remittance and brokerage receipt required RBI concurrence, could the permitted adjustment of the brokerage against the foreign premium satisfy receipt, instead of first sending the gross sum out and later receiving the fee back? The statement showed both the foreign party's entitlement and Boda's fee in dollars. The foreign agreement and RBI approval were integral facts. The Court did not hold that any domestic rupee set-off, unsupported book entry, or unapproved netting arrangement necessarily qualifies (paragraph 3; physical 9-10).

In considering purpose, the Court traced fiscal encouragement of Indian technical know-how and services, augmentation of foreign-exchange earnings, and the requirement that receipt and use accord with exchange-control law. It referred to Circular 138 of 17 June 1974, including permitted use of income outside India. That circular and the report's reference to former section 85 are historical material within this opinion; this review has not separately authenticated the complete predecessor-section or circular history (paragraph 4; physical 10). The assessee argued that lawful adjustment has the same financial and legal effect as reciprocal remittances. Revenue insisted on literal foreign-currency receipt and relied on Petron Engineering (paragraphs 5-6; physical 10-11).

Petron did not answer this issue. The Court explained that it decided whether a foreign branch of an Indian company was a foreign enterprise and answered no. It had not decided the present issue about the manner of receipt from the foreign principal. The Court distinguished that decision without displacing its foreign-enterprise holding (paragraph 6; physical 11-12).

The Court reproduced Circular 731 of 20 December 1995. It covered Indian reinsurance brokers who either deduct brokerage from gross Indian-collected premia before remitting the balance to their foreign principals or remit the gross premium and receive brokerage back through banking channels. It recorded RBI's view that the two methods were equivalent in principle and that netting was administratively convenient. The Board's clarification accepted the net method for the section 80-O deduction in those circumstances. The Court held this clarificatory circular binding on the Board which had issued it. This was reliance on that specific circular in this statutory setting, not a general judgment that every circular may

02 DISCUSSION BY THE HON'BLE COURT

override legislation (paragraph 7; physical 12-13/SCR 156-157).

Applying the actual remittance documents and RBI-approved foreign agreement, the Court held that retention of the dollar-denominated fee constituted receipt of income in convertible foreign exchange. A formal outward remittance followed by a return remittance would add no substance on these facts. It therefore rejected the Board's grounds that the income was generated in India or had not been received in the requisite foreign exchange. The legality of the documented mechanism, not merely economic similarity in the abstract, supports the holding (paragraph 8; physical 13-14/SCR 157-158).

The scope of the holding is confirmed by a bounded later primary comparison. In *Ramnath & Co. v. CIT* (5 June 2020), paragraphs 24-24.3, the Supreme Court explained that Boda concerned method of receipt: the reinsurance activity's eligibility was already accepted through Circular 731. It distinguished Boda from the separate question whether marine-product procurement services were eligible. It also acknowledged the specialist character of insurance-risk information. That later discussion does not overrule Boda's net-receipt holding or make every commercial agency service eligible (preserved official Ramnath PDF, physical 70-74).

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

03 JUDICIAL DECISION

The Supreme Court declared the CBDT proceedings dated 11 March 1986 declining approval improper and illegal, directed the Board to process the agreements in accordance with its stated principles, and allowed Civil Appeal No. 933 of 1989. It expressly made no order as to costs. The statutory receipt question was decided for the assessee, but the operative relief was processing of the agreements, not an unconditional award of approval for every purpose, a final quantified deduction, a tax computation or a refund (paragraph 8; physical 14/SCR 158 B-C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal allowed; CBDT refusal declared improper and illegal; processing directed

Final statutory receipt holding; administrative agreement processing still required

No quantified deduction/refund or unconditional satisfaction of all statutory requirements.

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

05 AKHB REVIEW POINT

For research into a legacy section 80-O receipt dispute, separate the nature of the service from the method of payment. Establish the actual foreign counterparty and contractual entitlement; preserve the ceding insurer's premium record, the gross/net foreign-currency statement, brokerage calculation, auditor's certificate and the relevant RBI permission. The case turns on a lawful, evidenced adjustment in the particular reinsurance arrangement. A label such as commission, a foreign customer or an economically equivalent domestic entry alone cannot establish statutory eligibility.

Keep the remedy precise. Boda removed the Board's stated foreign-exchange objection and required processing on the correct legal basis. It did not calculate the taxpayer's deduction or certify that every other condition for all later years had been met. Ramnath's 2020 distinction reinforces that qualifying activity and qualifying receipt are separate inquiries; it is a bounded verified later treatment, not a comprehensive citator clearance.

The official departmental section 80-O text labelled 2024 (No. 2), checked on 6 October 2026, expressly bars this deduction from AY 2005-06 onward. That later consolidation supplies a material historical sunset warning, not certification of the full legislative chain or present-law operation. Check the actual assessment-year text, applicable exchange-control regime and later judicial treatment before using the reasoning. No section equivalence, transition, savings rule or automatic precedent carryover to the Income-tax Act 2025 has been verified.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: No order as to costs

INDIVIDUAL PROCEEDING OUTCOMES

1.

Case number: Civil Appeal No. 933 of 1989

Underlying proceeding: Delhi High Court C.W.P.3086 of 1987, order 29 October 1987; CBDT refusal communications 11 March 1986

Assessment years: 1982-83; 1983-84; 1984-85

Outcome: Appeal allowed; refusal declared improper/illegal; Board directed to process agreements

Costs: Expressly no order as to costs

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Parties, remittance mechanism, accounting exhibit and procedural history

Source url: [Open cited source](#)

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

Paragraphs: Paragraph 1; SCR 147 D-152 F

Source role: judicial text

2.

Topic: Quoted historical section and precise question

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Paragraphs 2-3; SCR 152 F-154 C

Source role: judicial text

3.

Topic: Purpose, submissions, Petron and Circular 731

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13

Paragraphs: Paragraphs 4-7; SCR 154 D-157 E

Source role: judicial text

4.

Topic: Foreign-exchange receipt ruling and processing-only relief

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: Paragraph 8; SCR 157 F-158 C

Source role: judicial text

AMOUNTS AND THEIR DISTINCT REPORTED ROLES

1.

Amount: USD 1060891.68

Role: Exhibited gross premium due to foreign principal

2.

Amount: USD 71004.48

Role: Exhibited brokerage retained by Boda

3.

Amount: USD 989887.20

Role: Exhibited net premium remittance; not fee or tax award

4.

Amount: six lakhs

Role: Quoted High Court account only; no verified conversion/currency inference adopted

QUANTIFICATION AND MONETARY LIMITS

No final amount of deduction, tax liability or refund computed by the Court. Foreign-premium figures are transaction evidence.

REPORTED SOURCE ANOMALIES AND THEIR LIMITS

The narrative at SCR 148 calls US\$989,887.20 a remitted fee, but the original remittance table labels it the net balance to the foreign principal; brokerage retained is US\$71,004.48. The note uses those distinct table roles.; General commission recital of 3-6% at SCR 147 is not reconciled to the particular composite exhibit; no uniform percentage or inferred tax deduction is calculated.; The first exhibit continuation prints closing-particular date 3-1-1974 while other January 1984 entries are printed; retained as a source anomaly, not corrected silently.; The earlier nineteen-month insurance recital from 1 March 1980 and later 1982-84 policy exhibit are both preserved without inventing a single policy timeline.; Quoted High Court description of retained foreign exchange worth six lakhs is not adopted as an independently verified INR conversion.; The frozen INSC catalogue label is not promoted to an independently authenticated neutral citation.; Ramnath paragraph 24.2 contains an isolated 20 April 1995 circular date beside the correctly reproduced 20 December 1995 heading; this note follows the target judgment's consistent 20 December 1995 date.

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

FERA section 9 appears in appellant's explanation of permitted retention; CBDT Circular 731 dated 20 December 1995 and Circular 138 dated 17 June 1974; Former section 85 is mentioned as historical background in the report; exact predecessor history not independently verified

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K.S. Paripoornan, J., for the Court

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY CHECKS AND THEIR LIMITS

1.

Source: Income Tax Department section 80-O

Url: [Open cited source](#)

Access date: 2026-10-06

Version: 2024 (No. 2)

Pinpoint: Full web-derived section text, lines 65-87; sunset sentence 74

Result: Later consolidated text expressly denies section 80-O deduction from AY 2005-06 onward. Original amending enactment and complete historical/current legislative chain not independently verified.

Status: bounded later consolidation text verified

2.

Source: Income Tax Department Circular 731

Url: [Open cited source](#)

Access date: 2026-10-06

Version: Circular 731 dated 20 December 1995

Pinpoint: Official search-derived Hindi record; full page returned 403

Result: Search metadata corroborates date/number only. Complete English circular relied upon as embedded quotation in the target judgment and bounded Ramnath primary comparison, not as independently fetched original circular.

Status: search metadata only full open403 stop no retry

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Case: Ramnath & Co. v. Commissioner of Income Tax

Date: 2020-06-05

Source: [Open cited source](#)

Pinpoint: Paragraphs 24–24.3; official physical 70–74; cover/disposal1,97

Result: Expressly distinguished Boda's receipt-method question from whether procurement services qualify; not overruling of the net-receipt holding.

Status: bounded primary text and selected images verified

Scope limit: No comprehensive citator or current-applicability certification

RETAINED PDF SOURCE CHECKS AND READING LIMITS

1.

Kind: preserved official judgment

Asset id: 2020_6_719_800

Source id: 2020_6_719_800

Source role: auxiliary only

Role: auxiliary only

Source file: sources/auxiliary/official_ramnath_2020-06-05.pdf

Filename: official_ramnath_2020-06-05.pdf

Url: [Open cited source](#)

Source url: [Open cited source](#)

Sha256: 612106999b39f15bc8c5983d03f4329c252506b934e01c49cc774560f62ad8b9

Source sha256: 612106999b39f15bc8c5983d03f4329c252506b934e01c49cc774560f62ad8b9

File bytes: 391622

Pdf pages: 97

Physical text pages read: 1; 70; 71; 72; 73; 74; 75; 76; 97

Physical image pages read: 1; 70; 71; 72; 73; 74; 97

Full bounded judicial text read: False

Read bounds: Bounded auxiliary read: cover and disposal/date; full paragraphs 23–24.3 and their embedded Boda/Circular 731 quotation at 70–74. Text 75–76 read for adjacent DaCosta context, without an independent all-page or image claim for that judgment.

Provenance: Already-preserved official-source rendition reused from the repository's published primary-source copy; bytes/hash 97 page count matched existing canonical Ramnath source record. No new external acquisition or signature-certificate validation.

Review scope: Direct later treatment distinguishing Boda's method-of-receipt issue from qualification of procurement services; not a new primary candidate or replacement Ramnath review.

Checked at utc: 2026-10-06T02:26:59.728981+00:00

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 14 PDF pages; SHA-256

44abf8d27fac0298472a5db177f2dbea19f71f91e93671bc9c0732a41751bc2a. Original bytes preserved.

All 14 physical pages/SCR 145-158. Editorial headnote physical 1-3; appellate recital and K.S.

Paripoornan J. paragraphs 1-8 begin physical 3/SCR 147 and end 14/SCR 158. Remittance table spans physical 5-7 and forms part of paragraph 1. One appeal; 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

Printed SCR/date/docket/bench checked in preserved PDF. Frozen1996INSC1254 remains a catalogue anchor, not an independently authenticated neutral citation.

All three years are identified in the agreement-approval claim; one Supreme Court appeal. Example policy/remittance periods are not separate assessment years.

STATUTORY SCOPE

No Income-tax Act 2025 section-equivalence, commencement, transition, savings or automatic precedent carryover certified.

LATER TREATMENT

Source checked 2026-10-06. not_verified

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 14

SHA-256: 44abf8d27fac0298472a5db177f2dbea19f71f91e93671bc9c0732a41751bc2a

preserved official judgment - PDF pages: 97

SHA-256: 612106999b39f15bc8c5983d03f4329c252506b934e01c49cc774560f62ad8b9

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