

East India Hotels Ltd., Calcutta v. Commissioner of Income Tax, Calcutta

Civil Appeal No. 4167 of 1994

[1996] Supp.8 SCR 632 | 1996-11-08

Whether an approved hotel could receive the special extra depreciation allowance and also eligible extra-shift depreciation under the historical Appendix I, rather than being confined to one allowance.

32 (depreciation framework; identified in headnote) | 33 (approval purpose in quoted historical Appendix I) | 256(2) | 263

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

Assessment years: 1977-78

Historical cumulative allowances; shift proof and ceilings retained

For AY 1977-78, an approved hotel's special allowance of one-half of normal did not exclude eligible extra-shift allowance: up to one-half for proved double shifts or up to normal, instead of one-half, for proved triple shifts. The pre-1970 seven/fourteen-per-cent figures are historical background, not the AY 1977-78 rate. The report supplies no worked computation and its normal-allowance quotation has visible irregularities. Both questions were answered for the assessee with no costs; no Supreme Court remand was ordered. Current rules and later treatment remain unverified.

01 FACTS OF THE CASE

For AY 1977-78, the Inspecting Assistant Commissioner allowed the approved hotel depreciation that included extra-shift allowance on plant and machinery and extra depreciation on office equipment. The Commissioner revised the assessment under section 263, set it aside and remitted it for recomputation, reasoning that an approved hotel could receive only the special extra depreciation and not extra-shift allowance. The Tribunal cancelled that revision on the merits (physical page 3; SCR 634A-F).

On a section 256(2) reference, the Calcutta High Court answered both the allowance question and the consequential revision question for Revenue, following S.P. Jaiswal Estates, 188 ITR 603. The Supreme Court was also shown the contrary later Division Bench ruling at 216 ITR 145. The report gives no asset-by-asset figures, final rupee allowance or specified number of shifts proved by this assessee (physical pages 2-3; SCR 633H-634H).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court treated depreciation as an allowance on machinery and plant rather than an allowance determined by the label of the premises. It found no provision in the historical Appendix excluding hotels from extra-shift allowance. The Factories Act definition was used to explain that a shift refers to the periods during which successive sets of workers work; the concept was therefore applicable to a hotel operating throughout the day (physical page 5; SCR 636A–E).

The quoted historical Item III(iii) gave an approved hotel operated by an Indian company an extra allowance equal to one-half of the normal allowance on qualifying machinery and plant. Item III(iv) separately provided extra-shift allowance up to one-half of the normal allowance for established double-shift working, or up to the normal allowance instead of one-half for established triple-shift working. The special hotel allowance was additional, and did not remove eligibility under clause (iv). The claim and proof requirements in the quoted extra-shift provision remain part of the rule; the Court did not award an automatic maximum based solely on hotel approval (physical pages 4–5; SCR 635C–636H).

For historical background, the Court described the pre-1 April 1970 normal machinery rate as seven per cent and the triple-shift total as fourteen per cent. It expressly noted that the rate changed after that date. Those earlier percentages are not a numerical rate determination for AY 1977-78, for which the post-1970 clauses were applied (physical page 4; SCR 635A–C).

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

03 JUDICIAL DECISION

The Court answered question 2 affirmatively for the assessee: the approved hotel could claim eligible extra-shift allowance and the additional special hotel allowance. Consequently, question 1 concerning the Tribunal's cancellation of the Commissioner's section 263 order was also answered for the assessee. The civil appeal was allowed with no costs. The Commissioner's earlier remand is procedural history, not a new Supreme Court remand; the final order contains no fresh computation direction (physical pages 5–6; SCR 636H–637A).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal allowed; both reference questions answered for assessee; no costs

Final ruling that the two historical allowances are not mutually exclusive, with consequential section 263 result

The ruling preserves applicable allowance conditions and historical limits; it neither establishes a maximum shift claim for every hotel nor fixes a current depreciation rate or each asset's classification.

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

05 AKHB REVIEW POINT

Keep the two allowances distinct. The special approved-hotel allowance was one-half of normal; the separate extra-shift allowance had a double-shift ceiling of one-half and a triple-shift ceiling of normal instead of one-half. The triple-shift figure is not an additional one-half plus a further full normal allowance. The source does not supply the post-1970 normal percentage or a worked computation, so no rupee result or combined effective percentage should be inferred.

Approval of a hotel did not disqualify its machinery from extra-shift relief. It also did not dispense with the historical rule's requirement to claim and establish the relevant shift working. The discussion of a round-the-clock hotel explains why the concept can apply; it is not a finding of an exact shift count or usage period for every asset in this record. The section 263 answer follows the merits ruling and does not create an independent general limit on revisional jurisdiction.

The statutory quotation on physical page 4 has visible drafting/printing irregularities, including its phrasing of the normal-allowance explanation. The scan was checked; the note does not silently repair the source or use that wording to compound depreciation allowances. For any computation, obtain the authentic rule for the relevant year and verify later changes. No current-law equivalence or later-treatment conclusion is certified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal number and reference procedure

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Caption and unnumbered judicial opening; SCR 632 and 633E–H

Source role: reported metadata and judicial text

2.

Topic: Both questions, year, section 263 history and conflicting High Court authorities

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: Unnumbered reasons; SCR 634A–H

Source role: judicial text

3.

Topic: Historical rates, allowance limits and visibly irregular statutory quotation

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: Quoted Appendix I, Item III(iii)–(iv); SCR 635A–H

Source role: judicial text

4.

Topic: Worker-based shift concept and cumulative eligibility

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: Unnumbered reasons; SCR 636A–H

Source role: judicial text

5.

Topic: Both reference answers and operative allowance of appeal

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered conclusion; SCR 636H–637A

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

INCOME-TAX RULES PROVISIONS ACTUALLY IDENTIFIED

Rule 5; Appendix I, Item III(iii) and (iv), historical text relevant to AY 1977-78

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

abe585f823fdb6e20d137fe121e8aa6d95b91c04deb2cbb127eb778e04eee2a4. Original bytes preserved.

Complete judicial text: physical pages 2–6, SCR 633–637. Editorial headnote occupies physical page 1 and the upper part of page 2. Both referred questions, Commissioner's earlier remand, historical Appendix I quotations and final allowance of the appeal read in full.

[Open cited source rendition](#)

The judicial reasons identify a section 256(2) reference and two questions. The headnote's statement that the High Court allowed a Revenue appeal is not used as the procedural description.; The earlier Commissioner's section 263 order remitted the assessment for recomputation; the Supreme Court instead allowed the appeal and answered both questions for the assessee, with no further remand.; The seven-per-cent normal rate and fourteen-per-cent triple-shift total are expressly pre-1 April 1970 background. The Court says the rate later changed and gives no worked AY 1977-78 computation.; The quoted clause (iv) requires a claim and established double- or triple-shift working and states maximum additional allowances. A 24-hour hotel description does not eliminate those conditions or establish an exact asset-specific allowance.; Physical page 4 visibly prints awkward language in clause (iii) and an explanation referring to normal allowance "or the extra shift depreciation allowance". That rendition is retained as a source caution; no corrected formula or compounded allowance is invented.; The Factories Act definition supplies interpretive context. This judgment does not decide whether the hotel is a factory for every purpose of that Act.; The source records office-equipment depreciation within the assessment history but does not classify every asset or quantify the final deduction.

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. No independent later-treatment or current statutory search was completed. Authorities discussed within the source are reported as part of this judgment, not as separately verified later-treatment events.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 6](#)

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