

M/s South India Steel Rolling Mills, Madras v. Commissioner of Income Tax, Madras

Civil Appeal Nos. 5332–5335 (NT) of 1983

[1997] 2 SCR 488 | 1997-02-25

Whether a new firm's continuation of the same business preserved the dissolved firm's development rebate, and whether section 155 rectification or the original assessment record excluded the Commissioner's section 263 power.

33(1)(a) | 34(3)(a) | 34(3)(b) (distinguished transfer condition) | 155 | 263 including Explanation (b) | 261 (certificate appeals)

Two-judge bench | S.C. Agrawal, J. | G.B. Pattanaik, J.

Assessment years: 1962-63, 1963-64, 1967-68, 1968-69

Dissolved assessee, distinct reserve condition and bounded revision ruling

The old two-partner firm ceased to exist before the eight-year reserve period ended; the new firm's continuation of the business did not preserve its rebate. This is not a finding of transfer or a rule for every reconstitution. Section 155 did not exclude section 263, whose own conditions still apply. Four captioned appeals failed without costs; appearance-only companion numbers are unresolved. Historical incentive limits, current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The steel-rolling firm originally had four partners, later reduced by retirements to two. One of those two died on 3 March 1968, leaving a single survivor and dissolving the firm. On 4 March a new partnership between the survivor and the deceased's heirs continued the same undertaking. The present appeals concern the old firm, which had received development rebate for AYs 1962-63, 1963-64, 1967-68 and 1968-69 (physical page 4).

Because dissolution occurred before the prescribed eight-year period ended, the Commissioner used section 263 to withdraw the allowances. The Tribunal upheld that order and the High Court answered the referred question against the firm. The firm argued that the business continued, that section 155 was the exclusive corrective route, and that the Commissioner could not use a dissolution occurring after the ITO's orders (physical pages 4–5 and 8–10).

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

02 DISCUSSION BY THE HON'BLE COURT

Sections 33(1)(a) and 34(3)(a) required the rebate recipient itself to satisfy the ownership/business-use and reserve-utilisation conditions. The 75% reserve was to be used by the same assessee for the undertaking's business during the eight-year period. Continuation of the undertaking by a different firm did not preserve that condition when the old assessee ceased to exist. Malabar Fisheries concerned whether there was a transfer under section 34(3)(b); this case rested on failure of section 34(3)(a), not an adjudicated transfer. J.H. Gotla did not justify departing from the statutory language here (physical pages 5–10).

The challenge to the Commissioner's competence had not been raised before the Commissioner or Tribunal, but the Court also rejected it on merits. Section 155 rectification and section 263 revision were distinct powers, so availability of rectification did not exclude revision. The latter still required an erroneous order prejudicial to Revenue. Explanation (b) included relevant records available when the Commissioner examined the matter; the intervening death/dissolution preceded his order and could be considered (physical pages 10–11).

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

03 JUDICIAL DECISION

The assessee's appeals were dismissed without costs, leaving the Commissioner's withdrawal of the four years' development rebates undisturbed. The jurisdiction block expressly identifies four appeals, Nos. 5332–5335/1983. Although counsel appearances also mention Nos. 1064–1067/1982, the report gives no separate account or independently identified operative order for them; the note does not fabricate an eight-appeal merits narrative (physical pages 3–4 and 11).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Four captioned assessee appeals dismissed; rebate withdrawal sustained; no order as to costs

Final determination of the old firm's reserve-continuity failure and rejection of the stated section 263 objections

Dissolution of the two-person firm is not every change in constitution; no finding that dissolution itself was a transfer, and no dispensation from section 263 safeguards or statutory exceptions.

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

05 AKHB REVIEW POINT

Identify whether the same assessee survived, rather than assuming the continued factory or business name settles the question. The report distinguishes an earlier reconstitution after retirements from extinction after the death of one of only two partners. Keep section 34(3)(a) reserve continuity separate from section 34(3)(b) transfer analysis, including the quoted statutory exceptions.

For revision, the point is coexistence of powers and the temporal reach of the available record. It is not unlimited jurisdiction, a waiver of statutory time limits or permission to revise any debatable order. The Department-hosted 2011 compilation, page 231, editorial footnote 96, records discontinuance for post-31 May 1974 acquisitions/installations with limited transitional exceptions. This is a historical development-rebate decision, not a current incentive-rate ruling. Comprehensive later revision-law treatment remains unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, captioned appeals, appearance-only ambiguity and four years

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Dissolution, historical reserve/transfer conditions and exceptions

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6; 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Same assessee and distinction from transfer cases

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Distinct revision/rectification powers, expanded record and final dismissal

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Historical incentive limitation

Source url: [Open cited source](#)

Pdf pages: 231

Paragraphs: Section 33(5), editorial footnote 96

Source role: bounded statutory compilation and editorial note

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.C. Agrawal, J. (attributed by report running heads)

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SCOPE OF THE INCOME-TAX ACT ISSUE

Substantive 1961 act: True

Not 1922 only: True

Basis: The present questions and relief concern the expressly identified 1961 Act provisions; references to the 1922 Act are historical statutory/precedent discussion, not the sole basis of this note.

SOURCE & VERIFICATION

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

Identified source rendition: 11 PDF pages; SHA-256

afbe0d33f982c0d43677f2cd8af38c097ccdedd1bb948c50e7a5c01fca79a9da. Original bytes preserved.

Complete unnumbered judicial text physical pages 4–11/SCR 491–498. Four captioned certificate appeals; appearance entries additionally mention 1064–1067/1982 without separate facts or a separately identified disposition. No adjacent judgment.

[Open cited source rendition](#)

Four appeals are expressly captioned; an appearance-only reference to 1064–1067/1982 is preserved as a docket ambiguity, not silently counted as four separately reasoned additional appeals.; The decision concerns dissolution after one of two partners died, not the earlier retirement-based reconstitution or every death in a multipartner firm.; Section 34(3)(b) and its transfer exceptions are quoted, but the operative failure is the distinct same-assessee reserve condition in section 34(3)(a).; The report's headnote loosely says the new firm was not entitled; the judicial body expressly concerns withdrawal from the former firm.; The Court retains section 263's erroneous-and-prejudicial requirement. No separate limitation, notice or hearing dispute was decided.; A passing section 32AB(5A) analogy is Revenue's submission; no claim under that provision was adjudicated.

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 subsequent judicial treatment has not been verified. Only the expressly identified bounded historical statutory-compilation comparison was checked. No automatic current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 11](#)

SHA-256: afbe0d33f982c0d43677f2cd8af38c097ccdedd1bb948c50e7a5c01fca79a9da

[bounded historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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