

M/s. East India Pharmaceutical Works Ltd. v. Commissioner of Income Tax, West Bengal

Civil Appeal No. 1803 of 1981

[1997] 2 SCR 945 | 1997-03-11

Whether Rs 28,488 interest on money borrowed to discharge income-tax liability was deductible under section 37(1), and whether a new profits-funded-payment contention could be entertained in the Supreme Court.

37(1) | 256(1) | 256(2) (uninvoked reference remedy) | 261 | 57(iii) (discussed precedent)

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

Assessment years: 1972-73

Tax-borrowing interest disallowed; profits-in-overdraft presumption left undecided

The Rs 28,488 section 37(1) claim failed and the appeal was dismissed without costs. The Court refused the newly advanced profits-funding contention because it was not raised below or covered by the reference; it did not reject that presumption on its merits. Do not treat every overdraft as tax borrowing, or import cited cases' statutory heads and later asset-interest restrictions into AY 1972-73. Later treatment, present law and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The company claimed Rs 28,488 interest for AY 1972-73 on an overdraft used to pay income tax. The ITO, appellate authority and Tribunal rejected the deduction. Before the Tribunal the company argued that failure to pay the tax would cripple its business; the Calcutta High Court answered the referred section 37(1) question for Revenue (physical pages 3-4).

In the Supreme Court the company advanced a different contention: all its profits had gone into the overdraft account, exceeded the tax payment, and should be presumed to have funded the tax instead of the borrowed money. It relied on Woolcombers and related High Court cases and tendered a schedule to the assessment order. Revenue objected that the contention had not been raised below and fell outside the referred question (physical pages 4-5).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court found considerable force in the new contention but declined to determine it on this reference. Whether a profits-funded presumption arose depended on the actual profits credited, their sufficiency relative to the tax and other relevant circumstances. Those facts and that contention were not part of the question as litigated before the Tribunal and High Court; the additional papers could not cure the procedural gap. The earlier High Court cases had the necessary factual material and appropriately framed questions (physical pages 5–6 and 8).

On the question that was properly before it, the Court accepted that borrowing to meet the taxpayer's income-tax liability was not a borrowing for the business purpose asserted under section 37(1). It discussed Padmavati Jaikrishna's section 57(iii) reasoning and Madhav Prasad Jatia's older-Act borrowing test, while expressly recognising that the latter concerned a personal donation rather than income tax. The company's commercial-necessity argument did not establish deductibility on the stated record (physical pages 7–8).

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

03 JUDICIAL DECISION

The appeal was dismissed with no order as to costs, and the High Court's answer sustaining disallowance of Rs 28,488 stood. The Court did not decide that the proposed profits-in-overdraft presumption was legally invalid; it refused to entertain and decide that new contention within the existing reference and record (physical page 8).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Appeal dismissed; High Court answer on the Rs 28,488 interest claim upheld; no order as to costs

Final for the referred tax-borrowing question; the new profits-funded-payment contention was not adjudicated on its merits

No blanket disallowance of interest on every overdraft or every use of borrowed funds, and no conclusive adoption or rejection of a universal mixed-funds presumption.

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

05 AKHB REVIEW POINT

Separate deductibility of interest on borrowing actually used for income tax from the evidentiary question whether tax was instead met from the taxpayer's own profits in a mixed account. Trace credits and withdrawals and raise the factual case in the proper proceedings. This judgment supports neither an automatic profits-first presumption nor its universal rejection; the procedural limitation is part of the reason for the outcome.

The deduction provision must also be identified accurately. Section 37(1) is residual, and section 36(1)(iii) separately addresses business-purpose borrowing interest. The official 2017 section 36 text also illustrates a specific asset-acquisition restriction before first use. That later-version proviso was not the reason for this AY 1972-73 decision and cannot be imported into it. Other borrowing cases require the applicable statutory version, purpose and factual record; this bounded check supplies no present-law or 2025 certification.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, certificate appeal, question and Rs 28,488 claim

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Unnumbered judicial text; SCR 945–948

Source role: reported metadata and judicial text

2.

Topic: New profit-funds argument and Revenue objection

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered judicial text; SCR 948–949

Source role: judicial text

3.

Topic: Factual requirements and refusal to entertain the new question

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text; SCR 949–950

Source role: judicial text

4.

Topic: Distinct precedent provisions, preserved procedural limit and final order

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Unnumbered judicial text; SCR 951–952

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

G.B. Pattanaik, 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

627823084fd0e7ef6414bce8a77ec79455c5cd1bc2ee0363a0a228b1f960a58b. Original bytes preserved.

Complete judicial text physical pages 3–8/SCR 947–952. The referred question concerns interest on money borrowed to pay income tax under section 37(1); the profits-in-overdraft presumption was raised too late and not decided on its merits.

Open cited source rendition

The alleged deposit of sufficient profits is counsel's new contention, not a factual finding accepted as proved in this appeal. The note does not state that own funds actually financed the tax.; The Supreme Court twice expressed considerable force in the new argument, yet refused to decide it within the reference. The case must not be labelled a merits rejection of Woolcombers or an unconditional approval of its presumption.; The issue actually referred was under section 37(1). Section 57(iii) and section 10(2)(iii) of the 1922 Act appear in discussions of different cases, not as substituted operative provisions for this company's assessment.; Physical page 7 attributes reliance on Padmavati to the Tribunal, whereas the earlier procedural account on page 3 identifies Mannalal Ratanlal and Calcutta Landing. The note does not reconstruct which later authority the earlier Tribunal could have used; it attributes the precedent analysis to the Supreme Court.; The Court notes that no section 256(2) step had been taken to obtain a question reflecting the new contention. The note preserves this historical reference procedure without treating it as a present procedural instruction.; The checked statutory reproductions are explicitly dated versions, not a claim to have verified every amendment or restriction applicable today.

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 comprehensive subsequent judicial-treatment search or present-law certification has been completed. The expressly identified statutory checks are bounded qualifications, not a citator result.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 8

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