

Commissioner of Income Tax, Gujarat v. M/s Artex Manufacturing Company

Civil Appeal No. 2276 (NT) of 1981

[1997] Supp 1 SCR 608 | 1997-07-08

Whether an aggregate business transfer could attract the historical balancing charge where evidence identified the price attributable to depreciable assets, and how that charge related to capital gains.

41(2) (historical) | 45 | 261 (certificate appeal)

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

Assessment years: 1967-68

Attributable value mattered; final allocation remained open

Section 41(2) applied because the record disclosed asset-price attribution, but the charge remained capped and allocation was left open for further Tribunal findings on any capital-gain excess. Revenue succeeded only partly. The source conflicts on the agreement year, arithmetic and AOP/body-of-individuals terminology. Later statutory slump-sale and depreciation regimes differ; no current-law or comprehensive later-treatment certification is given.

01 FACTS OF THE CASE

The artsilk partnership transferred its business as a going concern to a newly formed company under an agreement dated 31 March 1966 in the opening facts. The Rs 11,50,400 consideration was satisfied by allotting 11,504 shares of Rs 100 to the partners in their profit-sharing proportions. The firm returned nil income for AY 1967-68, denying any section 41(2) or capital-gains charge (physical page 4).

During assessment it disclosed a valuation underlying the total price: assets of Rs 41,73,973, liabilities of Rs 30,23,573, and revalued plant, machinery and dead-stock of Rs 15,87,296. The ITO applied section 41(2); the appellate and reference proceedings disagreed over income character and status. Revenue's Supreme Court appeal concerned questions 2-6; the mutuality answer in question 1 had already gone in its favour (physical pages 4-6).

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

02 DISCUSSION BY THE HON'BLE COURT

The going-concern label and payment in shares did not alone determine the tax result. The Court compared historical balancing-charge decisions and distinguished a true unallocated aggregate price from a transaction where a particular price could be attributed to depreciable assets. Although this agreement omitted individual asset values, the assessee's own valuation evidence showed how the consideration had been fixed. Section 41(2) therefore applied on these facts (physical pages 7–17).

The statutory balancing charge was capped at the difference between actual cost and tax written-down value. A surplus beyond that limit had to be considered as capital gain. The Tribunal had not made the necessary findings, and the record did not permit the Court to answer the character/quantum question fully. The Court also affirmed the result rejecting registered-firm status, describing the appropriate status as a body of individuals, and rejected relief under the two inapplicable circulars discussed by the Tribunal (physical page 18).

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

03 JUDICIAL DECISION

Revenue's appeal was partly allowed without costs. The High Court's answers on questions 2, 3, 5 and 6 were set aside as specified. Question 2 was answered for Revenue on section 41(2) applicability, and question 5 was answered for Revenue against circular relief. The answer to question 3 was discharged, leaving it open to the Tribunal to rehear the parties and make clear findings about the balancing-charge ceiling and any capital-gain excess. In light of those answers, question 6's section 45 limb was answered in the negative and its section 41(2) limb in the affirmative; that disposition must be read with the express capital-gain-excess qualification. The answer to question 4 on non-registered-firm status was affirmed. The Court did not finally assess the entire ITO surplus as section 41(2) income (physical pages 18–19).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue in part; assessee retained the status result; allocation remained for Tribunal findings

Revenue appeal partly allowed; specified answers reversed or discharged, status answer affirmed; no costs

Final on applicability and stated limits of historical section 41(2), with consequential factual findings left to the Tribunal

No blanket rule that every going-concern transfer is wholly business income or wholly capital gain, and no final quantified tax determination.

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

05 AKHB REVIEW POINT

Preserve the valuation work and evidence explaining an aggregate sale price. Absence of an allocation in the sale agreement is not decisive where the actual assessment record discloses a contemporaneous attribution. Conversely, do not use a balancing-charge precedent to bypass its statutory ceiling or the findings needed to identify any separate capital-gain amount.

The same-day Electric Control Gear judgment expressly contrasted its absence of attributable asset-price evidence with Artex. That is an evidentiary distinction, not conflicting universal rules for all transfers labelled slump sales. A bounded check of the official Department-hosted 2011 compilation shows a separate section 2(42C)/50B slump-sale framework, inserted from 1 April 2000, and that original section 41(2) was omitted from 1 April 1988, with a later provision linked to section 32(1)(i) inserted from 1 April 1998. These historical changes prevent direct use of the AY 1967-68 computation as a present-day formula. Later changes, transaction exemptions and any 2025 Act correspondence are not verified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, evidence, historical year and appeal questions

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4; 5; 6

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Historical balancing-charge and allocation authorities

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10; 11; 12; 13; 14; 15; 16

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Valuation finding, statutory cap, further findings and mixed disposition

Source url: [Open cited source](#)

Pdf pages: 17; 18; 19

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Later statutory framework prevents current-year carryover

Source url: [Open cited source](#)

Pdf pages: 69; 306; 361; 362

Paragraphs: Sections 2(42C), 41(2) and 50B with specified footnotes

Source role: bounded historical statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.C. Agrawal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 19 PDF pages; SHA-256

bf1c6dea3e5151f572c3752e7f25c23385d1f039f065008f5e772f6cf6e1389f. Original bytes preserved.

Complete judicial text physical pages 3–19/SCR 610–626; multiple reference answers, further Tribunal findings and mixed result retained.

Open cited source rendition

The opening facts date the agreement 31 March 1966 and cessation 1 April 1966; physical page 17 instead prints execution on 31 March 1967. The conflict is retained rather than silently corrected.; The ITO's printed surplus is Rs 12,56,020; the printed Rs 15,87,296 value less Rs 3,32,276 tax written-down value would be Rs 12,55,020. The Court left necessary allocation findings to the Tribunal, and the note does not validate or repair this Rs 1,000 discrepancy.; Book written-down value Rs 4,36,896 and tax written-down value Rs 3,32,276 are different figures and must not be substituted for each other.; The earlier narrative and reference question contrast registered firm with association of persons, whereas the Supreme Court's concluding status paragraph says body of individuals. Both formulations are preserved without treating the categories as universally interchangeable.; Headnote paragraph 1.1's broad section 41(2), not section 45 shorthand must be read with headnote paragraphs 1.3–1.4 and the operative discussion preserving the balancing-charge ceiling, possible capital-gain excess and further findings. The reporter footer says appeal allowed, but the order says partly allowed.; The two circulars are described by subject and reasoning, without identifiers or reproduced full texts. No invented circular number or independent current administrative concession is asserted.

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 and statutory treatment has not been verified. Only the expressly identified bounded comparisons have been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 19

SHA-256: bf1c6dea3e5151f572c3752e7f25c23385d1f039f065008f5e772f6cf6e1389f

official department hosted historical statutory compilation - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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