

Commissioner of Income Tax, Gujarat v. M/s Electric Control Gear Mfg. Co.

Civil Appeal No. 101 of 1982

[1997] Supp 1 SCR 570 | 1997-07-08

Whether previously allowed depreciation alone established a taxable balancing charge on an aggregate business transfer, and whether the claimed circular relief applied.

41(2) (historical) | 45 (reference history) | 114 (historical reference question) | 34(2) (question not pressed)

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

Assessment years: 1967-68

Mixed result, not an exemption for every going-concern transfer

The old section 41(2) charge failed for lack of attributable asset-price evidence; past depreciation alone was insufficient. Revenue nevertheless won the circular-relief question. The operative order resolves questions 2, 4 and 8 despite the printed 2, 4 and 5 sentence. No blanket exemption or new capital-gain computation follows. Later statutory regimes differ and comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

Thirteen partners transferred the entire business assets and liabilities as a going concern to Electric Control Gear Pvt. Ltd. on 31 March 1966 for Rs 8 lakh, satisfied by shares allotted in their profit-sharing proportions. For AY 1967-68, the ITO treated Rs 3,32,863 of earlier depreciation as section 41(2) income and also brought capital gains to tax. The appellate proceedings concerned the charge, the assessee's status and other reference questions (physical pages 2–4).

The High Court answered questions 2, 4 and 8 against Revenue: section 41(2) applicability, registered-firm status and refusal of circular relief. Question 6 about depreciation was not pressed, while question 7 under section 114 did not survive. The printed sentence identifying the Supreme Court appeal wrongly lists question 5 instead of 8; the final decision clearly addresses questions 2, 4 and 8 (physical pages 4–5).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished the Artex judgment delivered the same day. In Artex, the assessment record identified asset values used in arriving at the sale consideration. Here nothing showed the part of Rs 8 lakh attributable to machinery, plant or building. Merely identifying total past depreciation did not establish the excess of asset-price over written-down value required for the historical section 41(2) charge (physical pages 4–5).

The High Court's status answer was upheld by reference to Artex. However, its circular-relief answer was reversed for the reasons in that judgment: the two described circulars did not apply to the transaction. These are separate issues; preservation of the assessee's balancing-charge answer did not give it an exemption from every possible tax on the transfer (physical page 5; Artex physical page 18).

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

03 JUDICIAL DECISION

The appeal was partly allowed only to reverse the High Court's answer to question 8, with that question answered for Revenue. The answers to questions 2 and 4 were affirmed. There was no order as to costs. The Supreme Court did not declare the entire Rs 8 lakh tax-free, make a fresh capital-gain computation or revive the unpressed depreciation question (physical page 5).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed: assessee on section 41(2) and status; Revenue on circular relief

Revenue appeal partly allowed only on question 8; questions 2 and 4 affirmed; no costs

Final narrow reference disposition on the three identified appealed questions

No blanket exemption of business-transfer proceeds or modern slump-sale computation. Past depreciation did not itself establish a taxable asset-price surplus, and failure of this balancing charge did not dispose of the separate capital-gains history.

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

05 AKHB REVIEW POINT

Compare actual evidence, not labels. To apply the old balancing charge, past depreciation is not a substitute for the sale-price attribution required by the provision. Read this short decision with Artex: the agreement's silence was overcome by contemporaneous valuation evidence there, whereas such evidence was absent here.

Track each reference question to its final answer. The assessee retained important rulings yet lost its circular claim, and the decision did not erase the distinct capital-gains history. 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, transaction and actual reference questions

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3; 4

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: No asset-price evidence and precise partial disposition

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Expressly incorporated same-day valuation/status/circular comparison

Source url: [Open cited source](#)

Pdf pages: 17; 18; 19

Paragraphs: Unnumbered judicial text

Source role: same day companion judgment

4.

Topic: Later statutory framework and historical limits

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: 5 PDF pages; SHA-256

0859f1c6bf50b3837ffbd8b6b65a8a90dea7519e119ee1d5e0a9cf14eb18f6a6. Original bytes preserved.

Complete judicial text physical pages 2–5/SCR 571–574; operative questions 2, 4 and 8 control over the contradictory appeal-question sentence within the judicial text on physical page 4 and the inconsistent first-page editorial narrative.

Open cited source rendition

The first-page narrative mistakenly says the High Court upheld section 41(2) applicability and registered-firm status. The actual question-by-question judicial discussion and final answers on pages 4–5 control.; Physical page 4 first identifies questions 2, 4 and 8 as the adverse answers, then prints the appeal as concerning 2, 4 and 5. The operative order resolves 2, 4 and 8; that conflict is not silently erased.; The appealed status question contrasts registered firm and association of persons; the incorporated Artex status paragraph uses body of individuals. The note preserves the affirmed non-registered-firm result without inventing a general equivalence of those categories.; Rs 3,32,863 is earlier depreciation, not an independently established sale-price surplus. Rs 8 lakh is the aggregate consideration, not a Supreme Court-determined exempt amount.; The historical Rs 5,000 capital-gains exclusion and section 114 history are not present-day thresholds. The Court did not separately reopen every reference question.; The circulars are not identified by number in this judgment; the same-day Artex reasons supply the bounded explanation, without a current concession being inferred.

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: 5

SHA-256: 0859f1c6bf50b3837ffbd8b6b65a8a90dea7519e119ee1d5e0a9cf14eb18f6a6

official department hosted historical statutory compilation - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

bounded same day reported judgment - PDF pages: 19

SHA-256: bf1c6dea3e5151f572c3752e7f25c23385d1f039f065008f5e772f6cf6e1389f

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

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.