

The Commonwealth Trust Ltd., Calicut, Kerala v. The Commissioner of Income Tax, Kerala II, Ernakulam

Civil Appeal (N.T.) No. 2978 of 1982 / Civil Appeal No. 2979 of 1982

[1997] Supp 3 SCR 179 | 1997-07-30

Whether a purchaser that had obtained depreciation on pre-1954 buildings could substitute 1 January 1954 market value for acquisition cost, and whether the separate Rs 1,260 house-rent deletion should stand.

32(1)(iii) | 40(a)(v) | 41(2) | 43(6) | 45 | 48 | 49 | 50(1) | 50(2) | 55(1)(a) | 55(2) | 261

Two-judge bench | S.C. Agrawal, J. | D.P. Wadhwa, J.

Assessment years: 1971-72

Mixed result; headnote reverses the house-rent ruling

The judgment decides the Rs 1,260 house-rent issue for the assessee, contrary to the printed headnote, while rejecting market-value substitution for these depreciated purchased assets. CA 2978/1982 was dismissed and CA 2979/1982 allowed, without costs. This is the AY 1971-72 section 50 regime; the Court expressly notes amendments from 1 April 1988. Mangalore, not the headnote's Calcutta, is the second property; historical amounts and later-law treatment must not be silently reconstructed.

01 FACTS OF THE CASE

The assessee company had owned properties at Calicut and Mangalore from 1920 onwards, and depreciation on its factory buildings had been claimed and allowed in earlier years. In accounting year 1970-71, relevant to AY 1971-72, it sold the Calicut Weaving Factory for Rs 20,000. The report records original value of Rs 10,000 and additional expenditure of Rs 979; after substituting 1 January 1954 market value, the assessee returned a capital loss of Rs 78. It sold the Mangalore buildings for Rs 2,25,000; the reported original cost as adjusted was Rs 76,680, and its substituted-value computation showed a gain of Rs 44,713 (physical pages 6-7; SCR 184-185).

The ITO denied that substitution under the then section 50(1), computing gains of Rs 9,021 and Rs 1,46,320 respectively. The Appellate Assistant Commissioner and Tribunal upheld that treatment, and the Kerala High Court answered the assessee's reference question for Revenue. A separate reference question, raised by Revenue, concerned the Tribunal's deletion of Rs 1,260 towards house rent under section 40(a)(v); the High Court had also answered that question for Revenue. Both questions reached the Supreme Court by certificate under section 261 (physical pages 5-7).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first disposed of the house-rent question for the assessee because the impugned view had been overruled in *Mafatlal Gangabhai & Co.* It did not rehear that earlier case or set out the underlying house-rent payment arrangement. The printed editorial headnote gives the opposite result; the judicial text on physical page 6 controls (SCR 184D).

For capital gains, section 48 applied and section 49 did not: these assets had not been acquired through one of section 49's specified modes. The then section 50(1) modified the ordinary computation where depreciation had been obtained, making the section 43(6) written-down value, as adjusted, the acquisition cost. Section 55(1)(a) explained that adjustment by reference to the terminal allowance or balancing charge already accounted for under the historical sections 32(1)(iii) and 41(2), thereby coordinating business-income and capital-gains treatment. Transfer expenses and improvement cost were not disputed (physical pages 19–20; SCR 197–198).

The general section 55(2) valuation option could not displace section 48 as modified by section 50(1). The Court distinguished an asset merely capable of depreciation from an asset on which depreciation had actually been obtained; in the latter case the special historical computation applied. The different section 50(2) route concerned section 49 acquisitions and did not assist a purchaser such as this assessee. Having examined the conflicting High Court approaches, the Court upheld the Gujarat, Allahabad, Calcutta and Kerala views and rejected the Bombay Full Bench's equitable reading-down approach in *Goculdas Dossa*. It also expressly recorded the amendments effective 1 April 1988, which ended this particular controversy (physical pages 13–22, especially 19–22).

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

03 JUDICIAL DECISION

The Court upheld the answer to question 2 for Revenue: the assessee could not use the 1 January 1954 market-value option for these depreciated purchased assets, and cost had to be determined under the historical section 50 read with section 48. The separate house-rent question was answered for the assessee. Civil Appeal No. 2978/1982 was dismissed; Civil Appeal No. 2979/1982 was allowed; there was no order as to costs. The Court did not perform a fresh item-by-item capital-gain or tax computation (physical pages 6 and 22).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed: Revenue on depreciated-asset acquisition cost; assessee on the house-rent question

CA 2978/1982 dismissed; CA 2979/1982 allowed; no order as to costs

Final determination of both reference questions, with the house-rent issue governed by the cited Supreme Court precedent

Historical AY 1971-72 computation; no current block-of-assets rule, universal denial of market-value substitution, or new tax calculation is established.

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

05 AKHB REVIEW POINT

Read both questions and the final appeal numbers before assigning a single winner. Here the lengthy capital-gains reasoning favours Revenue, but a separate, short house-rent ruling favours the assessee; the editorial headnote reverses that latter outcome.

For the capital-gains issue, preserve the mode of acquisition, the fact that depreciation was actually allowed, and the precise statutory version. A valuation option cannot be considered apart from the historical special computation that modifies the provisions through which it operates. Keep balancing adjustments distinct from a fresh revaluation, and do not import facts or valuation dates from quoted precedents into this assessee's case. The Court's own 1 April 1988 amendment warning makes mechanical application to a present disposal particularly unsafe. Comprehensive later treatment and 2025 Act mapping remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, author, certificates and two reference questions

Source url: [Open cited source](#)

Pdf pages: 1; 5; 6

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

Report pages: SCR 179, 183–184

2.

Topic: House-rent issue decided for the assessee; contradictory editorial headnote

Source url: [Open cited source](#)

Pdf pages: 2; 6

Paragraphs: Unnumbered judicial text

Source role: editorial discrepancy and controlling judicial text

Report pages: SCR 180G–H (headnote) versus 184C–D (judgment)

3.

Topic: Actual year, properties, amounts and procedural history

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

Report pages: SCR 184G–H–185G

4.

Topic: Historical statutory text governing acquisition cost and adjustment

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11; 12; 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

Report pages: SCR 186–191

5.

Topic: Conflicting High Court approaches, including quoted Goculdas Dossa facts

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15; 16; 17; 18; 19

Paragraphs: Unnumbered judicial text

Source role: judicial discussion of cited authorities

Report pages: SCR 191G–197C

6.

Topic: Court's acquisition-cost analysis and scope of sections 50(1) and 50(2)

Source url: [Open cited source](#)

Pdf pages: 19; 20; 21; 22

Paragraphs: Unnumbered judicial text

Source role: judicial text

Report pages: SCR 197D–200C

7.

Topic: 1988 amendment qualification, separate appeal results and costs

Source url: [Open cited source](#)

Pdf pages: 22

Paragraphs: Unnumbered judicial text

Source role: judicial text

Report pages: SCR 200C–E

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

D.P. Wadhwa, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

ACCOUNTING PERIOD IDENTIFIED IN THE JUDGMENT

1970-71

SCOPE OF THE INCOME-TAX ACT ISSUE

Substantive 1961 act: True

Other act only: False

Standalone 1961 merits note eligible: True

Reason: Judicial text directly decides the AY 1971-72 depreciated-asset acquisition-cost question under historical sections 48, 50 and 55, and a separate house-rent disallowance question under section 40(a)(v).

SOURCE & VERIFICATION

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

Identified source rendition: 22 PDF pages; SHA-256

72cebc7c9b08086a8f11a9a8d7dd8f91d5429e43950d6c50b213c2975a1d270d. Original bytes preserved.

Complete judicial text physical pages 5–22; all 22 source pages read, with editorial headnote and cited-authority quotations distinguished.

[Open cited source rendition](#)

The capital-gains holding applies the provisions governing AY 1971-72, including the 1 January 1954 valuation date and the then individual-asset section 50. The Court itself records amendments effective 1 April 1988 and says this particular controversy no longer survives. The January 1964 valuation date and AY 1981-82 occur in the account of Goculdas Dossa, not in this assessee's facts. No current section 50 or later valuation-date mapping is attempted.

The printed headnote on physical page 2/SCR 180G incorrectly says the Tribunal was not right in deleting Rs 1,260 house rent. The judicial text at physical page 6/SCR 184D expressly answers that question for the assessee, and the ending records one dismissed and one allowed appeal.; The headnote on physical page 1 calls the second property Calcutta. The judicial narrative at physical pages 6–7 identifies Mangalore; Mangalore controls.; The historical section 50(1) concerns adjusted written-down acquisition cost. It must not be silently substituted with a later version merely because the section number is unchanged.; The January 1964 valuation date and AY 1981-82 on physical pages 17–18 are Goculdas Dossa facts. This case concerns AY 1971-72 and the January 1954 option.; The report gives Mangalore original cost as adjusted of Rs 76,680 and assessed gain of Rs 1,46,320. Their arithmetic does not simply reconcile to Rs 2,25,000. No unreported expenditure or corrected figure is invented; the appeal determines the legal valuation option.; The report does not detail the house-rent payment arrangement. The brief application of Mafatlal does not establish a universal house-rent allowance exemption.; Physical page 22 expressly notes amendments from 1 April 1988 and states that a controversy of this kind no longer survives. No present-law or 2025 Act carryover is certified.

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. Citations within this judgment are reported as its reasoning, not as independently reviewed later-treatment authorities. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 22](#)

SHA-256: 72cebc7c9b08086a8f11a9a8d7dd8f91d5429e43950d6c50b213c2975a1d270d

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