

Bharat Commerce and Industries Ltd. v. Commissioner of Income Tax, Central-II; connected appeals

Civil Appeal No. 5509 of 1985 / Civil Appeal Nos. 3355–3356 of 1993

[1998] 2 SCR 150 | 1998-03-05

Whether interest for delayed income-tax payment, including instalment interest on voluntarily disclosed income, was deductible business expenditure or equivalent to interest on borrowed capital.

37(1) | 36(1)(iii) | 139 (historical interest) | 215 (historical) | 212 (historical) | 80V (historical tax-borrowing version) | 256(1)

Two-judge bench | Sujata V. Manohar, J. | D.P. Wadhwa, J.

Assessment years: 1972-73 (lead appeal), 1977-78 and 1978-79 (connected appeals)

Tax-default interest is not a business loan; separate questions reserved

All three historical deduction claims failed. Do not expand the decision to every statutory interest charge or treat tax instalments as actual borrowing. Section 80V's disclosure-tax coverage was only assumed, and the guarantee-commission authority's correctness was left open. The lead and companion amounts conflict within the report and are not reconciled. Costs are unquantified; current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

In CA 5509/1985 the manufacturing company claimed deduction for AY 1972-73 of Rs 11,470 interest under section 139 and the section 215 amount stated inconsistently as Rs 1,04,339/1,04,399. It argued that delayed tax payment kept funds available for business, making the interest commercially equivalent to borrowing (physical page 4).

CAs 3355–3356/1993 concerned AYs 1977-78 and 1978-79 and interest following instalments allowed on income-tax and surtax arising from voluntary disclosure. The reference amounts differ from the narrative's paid amounts; the companion taxpayer's separate name is not supplied in the judicial discussion. The Court treated the instalment argument as distinct from an actual borrowing from a third party (physical pages 7–10).

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

02 DISCUSSION BY THE HON'BLE COURT

Tax on income and interest arising from failure to discharge that obligation followed determination of income; they were not expenditure incurred to earn it. Keeping tax money available for business did not convert the statutory default into a business borrowing. Litigation costs to protect a business and interest on an operating sugarcane cess arose in different settings and were distinguished (physical pages 4–7).

The same reasoning governed the voluntary-disclosure tax interest. Historical section 80V was not available for the lead AY because it was introduced later. For the companion years the Court assumed, without deciding, that the provision could cover the disclosure tax, but rejected the claim because no money had actually been borrowed to pay it. Departmental instalments were not a loan from a third party. The Court also declined to decide the correctness of a distinct bank-guarantee-commission authority (physical pages 8–12).

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

03 JUDICIAL DECISION

CA 5509/1985 was dismissed with costs. CAs 3355–3356/1993 were separately dismissed with costs, with the questions answered for Revenue. No costs amount, revised interest computation or deduction was awarded (physical pages 7 and 12).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue in all three appeals

Lead appeal and both companion appeals dismissed with costs

Final denial of the identified historical interest deductions

Not a ruling that every statutory interest payment is non-deductible or a merits decision on the distinct bank-guarantee commission issue or section 80V's disclosure-tax coverage.

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

05 AKHB REVIEW POINT

Identify the underlying liability before classifying interest. The Court distinguished interest connected with tax on the taxpayer's income from an operating levy arising in earning profits. Also distinguish a real borrowing from mere permission to pay tax by instalments; a cash-flow advantage does not itself create borrowed capital.

The section 80V discussion belongs to its historical tax-borrowing version. That historical discussion does not establish any current-year deduction entitlement, and the judgment does not settle every other statutory charge, withholding situation or guarantee commission. Preserve the companion-year and amount distinctions instead of reconstructing a combined tax calculation.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, three appeals and lead claim

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Income-tax liability versus business/operating expense and first dismissal

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Companion years, amount conflicts and disclosure framework

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Instalments versus borrowing, reserved questions and companion dismissal

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: Unnumbered judicial text

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sujata V. Manohar, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 12 PDF pages; SHA-256

84094a3bbdac19d233f8e92e624111c6d9037b9656c06e4be53ad2da468ebffe. Original bytes preserved.

Complete unnumbered judicial text physical pages 4–12/SCR 153–161; two separately headed appeal groups and their separate dispositions preserved.

Open cited source rendition

The lead section 215 amount is Rs 1,04,339 in the referred question and Rs 1,04,399 in the narrative on the same physical page 4. Neither is silently corrected.; The companion questions give Rs 2,94,082 and Rs 43,142, while the narrative gives interest paid of Rs 2,82,106 and Rs 36,370. No reconciliation or hidden component is invented.; The companion reference is initially described as at Revenue's instance, but the ensuing narrative says it was raised at the assessee's instance. The final assessee-unfavourable result is clear.; The source identifies the lead company but does not independently name the companion taxpayer in the judicial discussion. Lead business facts and amounts are not automatically attributed to both companion appeals.; The Court assumes rather than decides section 80V's possible reach to tax under the disclosure Act; the claim fails on absence of actual borrowing.; C.J. Patel's bank-guarantee commission decision is distinguished and its correctness expressly left unexamined.

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: 12

SHA-256: 84094a3bbdac19d233f8e92e624111c6d9037b9656c06e4be53ad2da468ebffe

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