

The Coca-Cola Export Corporation v. Income Tax Officer and Another

Civil Appeal Nos. 4074–4076 of 1985 / Civil Appeal No. 1089 of 1985 / Civil Appeal Nos. 1090–1091 of 1985 (opening prints 1090/1995; withdrawal passage says 1090/1985)

[1998] 2 SCR 528 | 1998-03-30

Whether foreign-exchange remittance ceilings in government letters supplied a basis to reopen deductions already examined under the Income-tax Act.

147(a) and (b) (historical) | 148 | 256(2) (prior proceedings)

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

Assessment years: 1967-68, 1968-69, 1969-70, 1970-71 (two appeals withdrawn; merits left open), 1971-72, 1972-73, 1973-74

Remittance permission is distinct; two appeals were withdrawn

The letters did not supply the alleged tax-escapement basis. The judgment does not approve every expense or foreign remittance. Two AY 1970-71 appeals were expressly withdrawn with questions open, despite broad closing language; the remaining four merits appeals succeeded. The source conflicts on CA 1090's year and contains awkward negotiations. The clause-label point is historical, costs unquantified and comprehensive later treatment unverified.

01 FACTS OF THE CASE

The non-resident company's Indian branch bore allocated home-office expenses and service charges, recorded in dollars and rupees. In the regular assessments the ITO had examined those expenses and made stated partial disallowances. Later notices relied on foreign-exchange loss treatment and, for the later years, letters of 4 May 1973 and 6 November 1974 limiting foreign remittances (physical pages 4–6).

The High Court rejected the exchange-loss reopening ground, a ruling against which Revenue's special-leave challenge failed. That was the only recorded ground for AYs 1967-68 to 1969-70, yet their writ petitions were still dismissed. For AYs 1971-72 to 1973-74, the High Court left the ITO to examine the separate remittance-ceiling ground. The two AY 1970-71 appeals were expressly not pressed and withdrawn, leaving all questions for the Tribunal (physical pages 7–8 and 13).

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

02 DISCUSSION BY THE HON'BLE COURT

The letters governed permission to remit foreign exchange. Their overall 80% ceiling and service-charge sub-limit did not determine the deduction allowable under income-tax law. A breach could have consequences under the foreign-exchange regime, but those letters were irrelevant to the alleged tax escapement on which this reopening relied (physical pages 9–12 and 14–15).

Having examined the record under Article 226, the High Court should have decided the jurisdictional question rather than leaving this legal issue to the ITO. The Court did not say that information from every other department is always irrelevant; it examined what these particular letters actually regulated. It also noted that the historical notice need not label clause (a) or (b), but did not decide the separate conversion/limitation controversy because the asserted jurisdictional foundation itself failed (physical pages 14–15).

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

03 JUDICIAL DECISION

The merits appeals, CA 4074–4076/1985 and CA 1089/1985, succeeded: the challenged notices for the six years other than AY 1970-71 were quashed and the High Court judgment set aside to that extent, with costs stated in the closing order. The earlier express disposition dismissing CA 1090–1091/1985 as withdrawn remains distinct; their AY 1970-71 merits were left open before the Tribunal. No separate withdrawal-costs direction, fresh deduction amount or permission under foreign-exchange law was supplied (physical pages 7–8 and 15).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the four merits appeals; no merits determination in the two withdrawn appeals

Four merits appeals allowed and challenged notices quashed; two AY 1970-71 appeals dismissed as withdrawn with questions open

Final jurisdictional ruling in the argued matters; express withdrawal reservation for AY 1970-71

No blanket approval of every expense/remittance, no decision on withdrawn-year tax merits, and no modern notice-compliance rule.

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

05 AKHB REVIEW POINT

Keep tax deductibility separate from permission to remit money abroad. Identify the precise legal effect of the information said to justify reopening, rather than treating a regulatory payment ceiling as an expense-disallowance formula. This judgment did not erase the regular assessments' partial disallowances or certify that all remittances complied with FERA.

Read the whole disposition. The closing reference to all notices and appeals cannot safely be used to erase the explicit withdrawal of the AY 1970-71 matters earlier in the judgment. The clause-label discussion belongs to the old section 147 framework and is not a waiver of requirements under later reopening regimes.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal/year mapping and reopening grounds

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: Express two-appeal withdrawal and resolved exchange-loss ground

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Actual regulatory letters and their limited effect

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Jurisdictional error, historical notice point and closing relief

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15

Paragraphs: Unnumbered judicial text

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

D.P. Wadhwa, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 15 PDF pages; SHA-256

9b495464a209666af6db7d1be2f46029b6332107dccab1f855c3606f3512b22e. Original bytes preserved.

Complete unnumbered judicial text physical pages 4–15/SCR 531–542; separate withdrawal at page 7 retained despite broad closing language.

Open cited source rendition

The opening lists CA 1090/1995, while the explicit withdrawal passage identifies CA 1090/1985 with CA 1091/1985. The source conflict is preserved.; The final paragraph broadly allows appeals and quashes all notices, but physical page 7 expressly dismisses the two AY 1970-71 appeals as withdrawn, leaving merits open. The note preserves the specific earlier disposition rather than presenting those matters as merits victories.; On page 8 the narrative says the reopening conditions were satisfied while describing their failure and quashing the notices. On page 12 an awkward could-not phrase similarly conflicts with the clear surrounding reasoning. Neither isolated negation is adopted as the holding.; The 80% overall remittance ceiling and 10% service-charge sub-limit are historical terms of the reproduced letters, not income-tax deduction percentages or modern foreign-exchange limits.; The original assessments' 5%/3% disallowances and older exchange-loss proceedings are background; this judgment does not independently recompute them.; The Court does not decide the limitation consequences of treating an old clause (a) proceeding as clause (b), and does not adjudicate compliance with the separate foreign-exchange law.

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: 15

SHA-256: 9b495464a209666af6db7d1be2f46029b6332107dccab1f855c3606f3512b22e

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