

Central Board of Direct Taxes and Ors. v. Oberoi Hotels (India) Pvt. Ltd.

Civil Appeal No. 5750 of 1985

[1998] 2 SCR 501 | 1998-03-30

Whether CBDT could refuse section 80-O approval to the Nepal hotel agreement by treating its operation and management provisions as excluding qualifying technical services or commercial know-how, and whether another remand was appropriate.

80-O (historical agreement-approval regime)

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

Assessment years: See the source-scope notes; no year inferred.

Historical approval decision; no quantified deduction or current services rule

Oberoi's particular agreement qualified under the historical section 80-O regime and CBDT's appeal was dismissed without another remand. No assessment year, monetary deduction or costs award is specified; the source's whole-income quotation and counsel's 50% description are not reconciled into a rate holding. A bounded 2011 compilation check records later removal of approval wording, narrowing from 1 April 1998 and the AY 2005-06 sunset. Do not extend the holding automatically to other contracts, present technical-services provisions or the 2025 Act. Comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

Oberoi entered an agreement dated 29 November 1969 with Soaltee Hotel Pvt. Ltd., Kathmandu. The foreign enterprise retained ownership; Oberoi was to operate the hotel from 1 December 1969, provide consultants and specialists, train personnel, promote the hotel and supply its hotel-industry expertise. The initial term was fifteen years with an optional further five. Gross operating profits were allocated 85% to the foreign enterprise and 15% to Oberoi (physical pages 4 and 7–9).

CBDT initially refused approval without communicating reasons. The Delhi High Court set that decision aside on 5 January 1979 and required reconsideration after a hearing. CBDT again refused on 26 February 1980, principally treating the services as managerial and the know-how as used by Oberoi itself; it considered the qualifying trade-name element too small to quantify. The High Court quashed that refusal on 29 May 1981. CBDT brought this appeal (physical pages 4–7). The Supreme Court called this a matter relating to 1970, but did not identify an assessment year or quantify a deduction (physical page 27).

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

02 DISCUSSION BY THE HON'BLE COURT

The respondent could support the High Court's result on any section 80-O ground advanced in its writ, including the commercial-knowledge limb which the High Court had not accepted. The contract had to be read as a whole, rather than reduced to its hotel-operation clause. The expertise required to run a modern hotel and the technical, professional and supporting obligations brought this agreement within the historical provision; the Court also found that it made industrial, commercial or scientific knowledge, experience or skill available to the foreign enterprise (physical pages 10 and 25–26).

Relying on Continental Construction as discussed in this judgment, the Court treated professional services as included in technical services. A royalty, fee or commission did not cease to qualify merely because measured by a percentage of the foreign enterprise's profits: the substance and consideration mattered. It disapproved the contrary general proposition in J.K. (Bombay), commended Godrej and Boyce and regarded HMT's approach as narrow. The Court suggested Circular No. 187 might require changes; it did not reproduce an amended circular or decree that all management agreements qualified (physical pages 20–27).

Judicial review required the approval authority to exercise its powers reasonably in light of the statute's object. Although CBDT had acted in good faith, its grounds were not germane in light of the legal interpretation adopted. Normally reconsideration could follow, but the age of this particular dispute made another remand inappropriate (physical page 27).

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

03 JUDICIAL DECISION

CBDT's appeal was dismissed and the Delhi High Court judgment affirmed. The Court declined to send the matter back to CBDT for fresh appraisal. It made no quantified tax allowance and stated no costs order in the operative ending (physical page 27).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee/respondent on the agreement-approval dispute

Revenue appeal dismissed; High Court judgment affirmed; no further CBDT remand

Final decision on the historical agreement's qualification and the challenged refusal of approval

No identified assessment-year computation, deduction percentage applied to an assessed sum, or blanket qualification of every foreign management arrangement.

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

05 AKHB REVIEW POINT

Separate the contract's substantive services from its operating label and profit-linked remuneration. This judgment requires assessment of the actual combination of obligations; it does not make foreign-exchange earnings alone sufficient. It also concerns approval under a historical section 80-O regime, not a modern section 9 or treaty definition of technical services.

Bounded statutory check: the Department of Revenue-hosted 2011 compilation records omission of the approval wording from 1 April 1992, narrowing of the substantive section from 1 April 1998, and a phase-down ending deductions from AY 2005-06 onward (physical pages 536–538). Those limited checks do not verify comprehensive subsequent treatment or current law. The source quotes a whole-income deduction while counsel later describes 50%; this appeal does not resolve a rate or tax computation.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, agreement date, historical quoted section and procedural history

Source url: [Open cited source](#)

Pdf pages: 1; 4; 5; 6; 7

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Contract term, ownership, services, training and profit-linked payment

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Alternative support for result and CBDT circular quotation

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Whole-income quotation versus counsel's 50% description

Source url: [Open cited source](#)

Pdf pages: 5; 14

Paragraphs: Unnumbered judicial text

Source role: judicial text and counsel submission

5.

Topic: Earlier authorities distinguished from actual holding

Source url: [Open cited source](#)

Pdf pages: 20; 21; 22; 23; 24; 25

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Whole-contract qualification, profits point and operative dismissal without remand

Source url: [Open cited source](#)

Pdf pages: 25; 26; 27

Paragraphs: Unnumbered judicial text

Source role: judicial text

7.

Topic: Bounded later statutory approval, narrowing and sunset check

Source url: [Open cited source](#)

Pdf pages: 536; 537; 538

Paragraphs: Section 80-O and amendment footnotes 87, 89 and 91

Source role: historical statutory compilation

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: 27 PDF pages; SHA-256

a25c0d47d1cf03a078bcfd07b36cea3e616143719eb0917bb6f31bc35ea0c057. Original bytes preserved.

Complete unnumbered judicial text physical pages 4–27/SCR 504–527, beginning with D.P. Wadhwa J.; pages 1–4 contain reporter headnotes and appearances. Lengthy submissions, circular quotation and embedded precedent text are not independent findings in this appeal.

[Open cited source rendition](#)

The judgment begins on physical page 4/SCR 504; the preceding headnotes are editorial. Their label “overruled” for J.K. (Bombay) is not substituted for the Court’s precise rejection of the stated proposition on page 26.; The PDF image confirms agreement date 29 November 1969 on page 4; cached OCR renders its last digit unclearly. Operation from 1 December 1969 and the Court’s reference to a matter relating to 1970 are separately preserved, not converted into an assumed assessment year.; Section 80-O as quoted on page 5 uses a whole-income deduction; counsel describes 50% on page 14. No percentage is treated as a quantified holding or silently reconciled across statutory versions.; Page 21’s quotation of J.K. (Bombay) says other remuneration is excluded, whereas page 26’s restatement prints “included”; the legal point decided concerns substance over labels and profit-based remuneration.; The quoted CBDT order refers to two agreements/writs, but this Supreme Court appeal identifies the Soaltee agreement and Civil Appeal No. 5750 of 1985 only. No separate second appeal or agreement outcome is inferred.; Prior-case technical projects, circular discussions of other taxes, and the possible Indian training issue in HMT are not independently decided on their own facts here.

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 is not verified. Only the expressly bounded 2011 statutory-compilation section 80-O check on physical pages 536–538 has been performed. No later judgment has been independently reviewed for treatment of this decision; no current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 27](#)

SHA-256: a25c0d47d1cf03a078bcfd07b36cea3e616143719eb0917bb6f31bc35ea0c057

[official department hosted historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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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.

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