

Eastern Chemical and Minerals v. Commissioner of Income Tax

Civil Appeal Nos. 526–528 of 1992

[1999] 1 SCR 948 | 1999-03-09

Whether consideration for assigning import licences could count as export-sale proceeds toward the 50% threshold for the historical section 104 exemption under Notification S.O. 3210 of 8 August 1969.

104(1) | 104(3)

Three-judge bench | S.P. Bharucha, J. | S.S. Mohammed Quadri, J. | R.C. Lahoti, J.

Assessment years: 1972-73, 1973-74, 1974-75

Historical notification only; licence receipts and export proceeds differ

The dismissal concerns Notification S.O. 3210 under the former section 104. It excludes import-licence assignment receipts from qualifying export-sale proceeds under that specific 50% test, not from every business-income or export-incentive provision. The figures reported are permission ceilings and no year-wise tax computation is supplied. Section 104's omission from 1 April 1988 was separately checked; the source's singular closing sentence covers a three-appeal caption. Costs are unquantified, and comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

For AYs 1972-73 to 1974-75, the company claimed exemption from additional income tax on undistributed income under section 104(1) read with Notification S.O. 3210. A Ministry of Commerce letter of 26 March 1969 had permitted a barter arrangement involving exports of ferro-silicon manufactured by Mysore Iron and Steel Works up to Rs 52 lakh f.o.b. and imports of specified pesticides up to Rs 22 lakh. The resulting import licences could be endorsed to approved actual users. These figures were permission ceilings, not the reported amounts actually realised (physical pages 3 and 5/SCR 950 and 952).

To satisfy the notification's threshold, the company counted consideration from assignment of the import licences alongside the proceeds from its exports. The Income Tax Officer rejected the claim; the Commissioner (Appeals) and Tribunal accepted it. It was common ground before the Tribunal that counting the assignment receipts would satisfy the more-than-50% position for all three years. The Madras High Court reversed, and three connected assessee appeals followed. Actual year-wise receipts, distributable income and assessed tax are not supplied (physical pages 2 and 5–6/SCR 949 and 952–953).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court construed the notification's two provisos. For the export limb, the qualifying receipts were proceeds from goods or merchandise exported out of India, received in or brought into India in accordance with the then Foreign Exchange Regulation Act requirements. The notification required qualifying proceeds to reach 50% or more of the aggregate sale proceeds and other gross business receipts credited to the profit and loss account for the previous year. This statutory threshold is distinct from the Tribunal's factual observation that the disputed inclusion would take this assessee above 50%. The reproduced notification also addressed overseas construction/services and technical know-how, but those were not the activities decided here (physical pages 4–7/SCR 951–954).

The fact that export activity generated an entitlement to import licences did not make the consideration for assigning them proceeds of exported goods. The assignments to actual users in India fell outside the relevant notification requirements. Even the argument that licences compensated for export losses at competitive international prices could not extend the text. The High Court had correctly distinguished Wheel and Rim Company of India on its facts; the Supreme Court affirmed that conclusion without importing that earlier case's facts into this assessee's claim (physical pages 6–7/SCR 953–954).

The holding concerns the numerator under this specific exemption test. It does not pronounce that licence receipts are never business income, decide another export-deduction provision, or eliminate the notification's gross-receipts denominator.

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

03 JUDICIAL DECISION

The High Court's judgment was affirmed and the assessee's connected appeals dismissed with costs, sustaining the negative answers on the exemption and treatment of import-licence assignment consideration. The operative sentence uses the singular appeal, while the caption identifies Civil Appeal Nos. 526–528 of 1992 and the report closes Appeals dismissed. No costs amount or final tax computation is stated (physical pages 2–3 and 7/SCR 949–950 and 954).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Three connected assessee appeals dismissed with costs; High Court judgment affirmed

Final denial of the claimed historical notification treatment of licence-assignment receipts

Assignment consideration was excluded from qualifying export-sale proceeds for this notification; this is not an unrestricted rule for later export incentives or other statutory definitions.

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

05 AKHB REVIEW POINT

Separate the origin of a commercial entitlement from the statutory character of the money received when it is sold. An import licence may arise because of exports, but the notification asked for proceeds of the exports themselves. Reproduce the precise qualifying numerator and full gross-receipts denominator before attempting the threshold calculation; the source gives no figures with which to reconstruct it.

This is a historical section 104 case. A bounded check of the Department-hosted 2011 compilation, physical page 585, and the official section 104 webpage confirms omission of section 104 by the Finance Act, 1987 with effect from 1 April 1988. That check does not verify later judicial treatment, a current export incentive, or any Income-tax Act, 2025 analogue. The notification was read as reproduced in the judgment, not independently checked against an original Gazette copy.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and three-appeal caption

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Unnumbered judicial text

Source role: reported metadata

2.

Topic: Both referred questions and years

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Reproduced historical section and notification denominator

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Barter permission ceilings and lower-court history

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Notification construction, licence-assignment exclusion and dismissal

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Bounded statutory-history check: section 104 omission

Source url: [Open cited source](#)

Pdf pages: 585

Paragraphs: Section 104 omission text and Chapter XI heading; printed 1.544

Source role: historical statutory compilation

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.P. Bharucha, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER STATUTORY SOURCES AND LIMITS OF THE CHECKS

1.

Status: bounded historical statutory check only

Proposition: Section 104 was omitted by the Finance Act, 1987 with effect from 1 April 1988.

Sources: [https://dor.gov.in/files/acts_files/IT%20Act%20\(English\)_0.pdf#page=585](https://dor.gov.in/files/acts_files/IT%20Act%20(English)_0.pdf#page=585);
<https://www.incometaxindia.gov.in/w/section-104-10>

Checked at: 2026-10-04T15:40:10.870898+00:00

Limits: Only the omission entry/footnote was checked; not comprehensive later judicial treatment, current export law or 2025 mapping.

HISTORICAL NOTIFICATIONS CONSIDERED

Notification S.O. No. 3210 dated 8 August 1969, issued under section 104(3); its relevant text is reproduced in the judgment

SOURCE & VERIFICATION

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

Identified source rendition: 7 PDF pages; SHA-256

6789d844e6f8f0072f370a3b0c23e25485c39ed54438f3ddaa93c159cd8c3468. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–7/SCR 950–954, including the reproduced historical section 104 and notification. Reporter headnote and appeal caption on pages 1–2 are separately distinguished.

[Open cited source rendition](#)

The Rs 52 lakh export and Rs 22 lakh import amounts are permission limits, not proven turnover, actual assignment consideration or tax liability.; The report's shorthand aggregate gross income must be read with the notification's actual denominator: sale proceeds and all other gross business receipts credited to the profit and loss account.; The body ends dismiss the appeal, but the caption lists 526–528/1992 and the closing reporter line says Appeals dismissed; all three are retained.; Section 104 is a historical omitted provision. Only the stated omission checks were performed; no current exemption entitlement is represented.; No original Gazette verification of the 1969 notification, year-wise computation or quantified costs is available in this review.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text and Rules for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial and statutory treatment has not been verified. Only the separately identified bounded statutory-version checks have been performed; no current-law certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 7](#)

SHA-256: 6789d844e6f8f0072f370a3b0c23e25485c39ed54438f3ddaa93c159cd8c3468

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

[official department statutory webpage](#)

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.

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