

Commissioner of Income Tax v. Bombay Burmah Trading Corporation

Civil Appeal Nos. 2600–2603 of 1994 / Civil Appeal No. 3788 of 1999

[2000] 1 SCR 809 | 2000-02-15

Whether historical section 35B required the goods to be exported from India, and whether the existing record supported the qualifying overseas-service character of the claimed expenditure; a separate overseas-employee question was conceded to be covered against Revenue.

35B (historical), particularly 35B(1)(b)(viii) | 40(c)(iii)/40(a)(v) (historical overseas-employee question) | 256(1)

Two-judge bench | D.P. Wadhwa, J. | Syed Shah Mohammed Quadri, J.

Assessment years: 1967-68, 1968-69, 1969-70, 1970-71, 1974-75

Five historical appeals; source year/window tension and omitted provision

All five Revenue appeals were dismissed with unquantified costs, including the additional CA 3788/1999 omitted from the caption. The no-ex-India requirement does not waive qualifying-expenditure conditions. The source prints AY 1967-68 but quotes a later expenditure window; no reconciliation is supplied. Section 35B was subsequently omitted. Preserve the distinct overseas-employee issue and do not present this as a current export allowance. Comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

The Court states that five Revenue appeals involved the same parties. CAs 2600–2603/1994 arose from the Bombay High Court's 12 December 1988 decision and are expressly assigned AYs 1967-68 through 1970-71. CA 3788/1999 concerned AY 1974-75 and the High Court's 30 July 1998 decision. These are the source's stated years; the note does not reconcile the earliest year with the subsequently quoted statutory expenditure window (physical pages 2–3).

The Indian resident company exported tea from East Africa to the United Kingdom and claimed weighted deduction on expenditure stated as Rs 1,95,935. The AO, AAC and Tribunal rejected the claim because the tea was not exported from India; the High Court allowed it. The record also contained a question whether historical sections 40(c)(iii)/40(a)(v) applied to employees in overseas branches. The source does not allocate the Rs 1,95,935 across the five years or specify a separate amount for every appeal (page 3).

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

02 DISCUSSION BY THE HON'BLE COURT

For the overseas-employee question in the earlier group, counsel agreed that this Court's Continental Construction decision covered it against Revenue; the Court did not conduct a new detailed employee-expense analysis (physical page 3).

On section 35B, the Court considered the quoted historical text, including the expenditure period after 29 February 1968 and before 1 March 1983, the exclusion of capital/personal expenses, and the requirement of wholly and exclusively qualifying expenditure. Clause (b)(viii) addressed services outside India connected with a contract for supply outside India. Nothing in that language required the goods themselves to originate in India (pages 4–5).

Revenue then argued that no Tribunal finding established the qualifying service expenditure and that a supplementary statement was necessary. After reading the lower-authority orders, the Court found the existing record and the referred question sufficient: the claim related to services in East Africa and the United Kingdom in executing the UK tea-supply contract. The acknowledged absence of the return copy did not change that conclusion on this record (pages 5–6).

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

03 JUDICIAL DECISION

All five Revenue appeals were dismissed with costs, sustaining the High Court orders, including the section 35B claim and the separately covered overseas-employee answer in the earlier group. The Court gave no quantified costs, fresh year-by-year deduction calculation, supplementary-statement direction or remand (physical pages 2–3 and 6).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Five Revenue appeals dismissed with costs

Final on the historical questions and existing factual record

Absence of an ex-India export requirement does not dispense with the statutory expenditure conditions, make every overseas expense eligible, or establish a current export deduction.

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

05 AKHB REVIEW POINT

For an old section 35B claim, identify the particular sub-clause and connect the actual expense to its required activity. Goods can move between two foreign countries without automatically failing this historical provision, but evidence of the qualifying services and contract still matters. The Court's acceptance of these reference materials is not permission to invent facts missing in another case.

Keep all five dispositions visible and preserve the source's year/window tension: it expressly includes AY 1967-68 yet quotes an expenditure window beginning after 29 February 1968. No explanation or year-specific reconciliation is provided. The checked 2011 compilation records section 35B's omission from 1 April 1989 and original insertion from 1 April 1968. Accordingly, the decision is historical authority, not a currently available weighted-deduction scheme or an automatic mapping to later export provisions.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, five-appeal body/caption difference and assessment years

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Tea movement, Rs 1,95,935 claim and overseas-employee question

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Historical expenditure window, eligible-service clause and no ex-India requirement

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Factual-record objection, existing material and dismissal with costs

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Original insertion and later omission of section 35B**Source url:** [Open cited source](#)**Pdf pages:** 268**Paragraphs:** Section 35B entry and footnote 71**Source role:** bounded historical statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Syed Shah Mohammed Quadri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

71a04ac301cad898cf1358ec402df5fc4b8efeb85f9637559f6ad745b3a3ded. Original bytes preserved.

Complete unnumbered judicial text physical pages 2–6/SCR 810–814; judicial text begins on page 2 after the editorial headnote. All five appeals described in the body are preserved despite the narrower printed appellate caption.

[Open cited source rendition](#)

The appellate caption lists only CAs 2600–2603/1994, but the judicial opening says five appeals and expressly adds CA 3788/1999. All five are included in the note and final disposition.; AY 1967-68 is expressly printed in the four-year range, while the quoted provision requires expenditure after 29 February 1968; the 2011 compilation gives original statutory insertion from 1 April 1968. This source conflict is disclosed rather than repaired by inventing a different year.; Rs 1,95,935 is the common narrative/reference amount. No invented identical deduction amount is assigned to each of the five assessment years.; The Court's company-focused conditions must not be restated as excluding all non-company claimants: the quoted provision itself also mentions a resident person other than a company. Only this company's claim is decided.; The overseas-employee question was separately conceded to be covered against Revenue. The detailed reasoning of Continental Construction is not reproduced or independently re-reviewed here.; The final page has a visibly awkward printed sentence about the unavailable return and the departmental/appellate orders. The Court's conclusion that the existing materials and question established the service nature is clear; missing text is not reconstructed as a verbatim quotation.; Costs are unquantified. No modern export allowance, refund figure or statutory crosswalk 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. 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: 6](#)

SHA-256: 71a04ac301cad898cf1358ec402df5fc4b8efeb85f9637559f6ad745b3a3ded

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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