

The Eimco K.C.P. Ltd., Madras v. Commissioner of Income Tax, Madras

Civil Appeal Nos. 4058–4059 of 1994

[2000] 1 SCR 1185 | 2000-02-25

Whether know-how contributed by a promoter towards capital, recognised by share allotment, was deductible revenue expenditure, and whether the pending appeal barred the challenged revision.

35A | 37(1) | 263 | 256(1)

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

Assessment years: 1969-70

Headnote reverses revision answer; formation contribution governs

The judicial text confirms both High Court answers for Revenue, despite the headnote saying revision was barred. The know-how was a promoter's formation-stage capital contribution; the case does not make every share-paid acquisition or operating know-how expense non-deductible. The headnote also imports Alembic's facts, and the report varies between Rs 2,35,000 and Rs 2,80,000. Both appeals were dismissed with unquantified costs; later treatment remains unverified.

01 FACTS OF THE CASE

An American and an Indian promoter formed the company. The arrangement called for initial capital contributions, with the American promoter contributing technical know-how valued at Rs 2,35,000 and the balance in cash. Shares were allotted in recognition of that contribution. For AY 1969-70, the company claimed the know-how value as revenue expenditure (physical page 3).

The AO allowed one-fourteenth under section 35A instead. During the company's appeal, the Commissioner revised that allowance under section 263 on the ground that the transaction was not expenditure. The Tribunal subsequently allowed the company's claim, but the High Court answered both referred questions for Revenue (physical page 4).

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

02 DISCUSSION BY THE HON'BLE COURT

The company did not seriously contest the first answer concerning the Commissioner's power. The Supreme Court expressly confirmed the High Court's answer for Revenue with reference to the cited authorities. The headnote's statement that the Commissioner could not interfere reverses this judicial text and is not adopted (physical page 4).

On the deduction issue, the Court read the formation letter and contribution arrangement. It was a promoter's capital contribution recognised by allotment, not an expenditure incurred by the company in carrying on an existing business to buy improved know-how. Alembic Chemical Works involved the latter setting and was distinguished. On these facts the transaction was not revenue expenditure under section 37(1) (physical pages 5-7).

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

03 JUDICIAL DECISION

Both assessee appeals were dismissed with costs and the High Court's answers for Revenue confirmed. The one-fourteenth allowance was not restored. No costs amount, fresh valuation, later depreciation entitlement or remand was determined (physical page 7).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on both referred questions

Two assessee appeals dismissed with costs

Final on the formation-contribution transaction and the revision question as presented

Not a universal rule that shares can never constitute consideration or that every know-how payment is non-deductible; no blanket present section 263 power irrespective of the governing text and appeal status.

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

05 AKHB REVIEW POINT

Separate the promoter's contribution from the company's later acquisition or operating expenditure. Examine the formation documents, subscription obligation, share-allotment resolution and stage of business rather than classifying every technical-data arrangement alike. This case does not adjudicate deductions or depreciation available under later provisions for a different transaction.

For revision, the actual answer was for Revenue and the point was not seriously pressed. Do not cite the contradictory headnote as a merger rule barring revision merely because an appeal is pending, or read the brief answer as a complete guide to later section 263 conditions.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and conflicting editorial summary

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Formation facts, revision history and actual first answer

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Section 37, contribution letter and Alembic distinction

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Final result and amount caution

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Unnumbered judicial text

Source role: judicial 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: 7 PDF pages; SHA-256 ffa5a60b2a54eff219edf1fdd1ffeb245eeec4c7735821c41af8ac778b627990. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–7/SCR 1187–1191; editorial headnote materially contradicting the judicial answer is excluded as authority.

Open cited source rendition

The headnote says the Commissioner could not interfere under section 263; the judicial paragraph on page 4 records both answers for Revenue and expressly confirms the first. The body controls.; The headnote wrongly presents the higher-yield/existing-manufacture facts from Alembic Chemical Works as though they were Eimco's own. The judicial text distinguishes that case.; The narrative identifies Rs 2,35,000 as the know-how value/share allotment, while the final reasoning mentions Rs 2,80,000, the stated total initial contribution. These printed amounts are not silently made identical.; The one-fourteenth section 35A allowance is the AO's superseded treatment, not relief restored by the Supreme Court.; The know-how contribution before commencement and formation-stage arrangements are material; no later intangible-asset or royalty classification is invented.

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: 7

SHA-256: ffa5a60b2a54eff219edf1fdd1ffeb245eeec4c7735821c41af8ac778b627990

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