

V.M. Salgaocar and Bros. Pvt. Ltd. etc. etc. v. Commissioner of Income Tax etc.

Civil Appeal No. 657 of 1994 / Civil Appeal Nos. 4012–4013 of 1998

[2000] 2 SCR 1169 | 2000-04-10

Whether the notional interest on director debit balances could be treated as a perquisite under the historical sections 17(2) and 40A(5), and what significance attached to the earlier certificate-appeal dismissal and Tribunal findings.

17(2) | 40A(5) (historical) | 256(1) | 256(2) | 261 (earlier certificate appeal) | 36(1)(iii) (discussed; no independent general deductibility ruling)

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

Assessment years: 1979-80 (company: CA 657/1994), 1980-81 and 1981-82 (director: CAs 4012–4013/1998)

Historical loan-perquisite law; distinguish three present appeals from the earlier dismissal

The company's one appeal succeeded and Revenue's two director appeals failed under the historical provisions, with no costs. This is not a continuing exemption for employer loans: section 40A(5) was later omitted and later section 17/Rule 3 provisions require separate consideration. The earlier certificate appeal is background; a bare SLP refusal is different. Preserve the source's 1977/1997 and Rs 90,640/Rs 93,640 conflicts. Comprehensive later treatment and current-law/2025 Act mapping remain unverified.

01 FACTS OF THE CASE

For AY 1979-80, the company paid 15% interest on borrowings while its directors drew money without paying interest. The AO disallowed Rs 5,21,241, calculated at 15% of director debit balances, under sections 40A(5) and 17(2). CIT(A) sustained it; the Tribunal deleted it, finding no Revenue evidence that borrowed funds were directly diverted for the directors' benefit. The Karnataka High Court answered the reference for Revenue, producing the company's CA 657/1994 (physical pages 5–6).

In CAs 4012–4013/1998, Revenue challenged relief to director Shivanand V. Salgaocar for AYs 1980-81 and 1981-82. His AO had taxed a notional 15% benefit on the debit balance; the appellate authorities and High Court rejected that treatment. The source does not supply separate director addition amounts or an individual appeal-to-year mapping (pages 6–8).

The Court also considered the company's distinct AY 1980-81 proceeding. That earlier reference included a section 40A(5) addition, a Rs 39,11,054 interest disallowance involving sister-concern advances, and Rs 43,320 compensation to agriculturists. Revenue's certificate appeal, CA 424/1999, had already been dismissed on 25 January 1999. Those were background matters, not additional appeals newly disposed of on 10 April 2000 (pages 8–10).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished a bare refusal of special leave under Article 136 from dismissal of an appeal after appellate jurisdiction has been invoked. It treated the earlier certificate-appeal dismissal as attracting merger and supporting the company's position. Its discussion does not turn every unexplained SLP dismissal into approval of the lower court's reasoning or a declaration of law (physical pages 11–13).

On the tax merits, the Court attached significance to the 1984 insertion of a specific interest-loan prerequisite provision, intended from 1 April 1985, and its omission by the Finance Act, 1985 from that same date, with the cited CBDT explanations. These developments could guide interpretation of the historical provisions and could not be dismissed as irrelevant. After reviewing the differing High Court decisions, the Court approved the quoted P.R.S. Oberoi reasoning and answered the questions for the assesseees (pages 10–11, 13–24).

The High Court could not replace the Tribunal's finding of no proved direct diversion with its own assumption that mixed funds made proof impracticable. The Court applied that reference-record limit as well as its interpretation of the old provisions; it did not decide that every director advance is for business purposes or that all interest expense is deductible (pages 24–25).

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

03 JUDICIAL DECISION

CA 657/1994 was allowed, reversing the adverse reference answer and sustaining deletion of the company's Rs 5,21,241 historical section 40A(5) addition. Revenue's CAs 4012–4013/1998 were dismissed, preserving the director's relief for the two stated years. There was no order as to costs. CA 424/1999 remained an earlier dismissal relied upon, not a fourth present disposition (physical page 25, read with pages 5–10).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Company and director assesseees

Company appeal allowed; both Revenue appeals concerning the director dismissed; no order as to costs

Final on the three historical appeals and questions presented

Historical prerequisite/disallowance text and established reference facts; not a present exemption for employer loans, a universal section 36 interest allowance, or an equation of SLP refusal with appeal dismissal.

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

05 AKHB REVIEW POINT

Identify which taxpayer, year and statutory question is involved. An employer's expense disallowance and an employee's taxable benefit require separate analysis. Preserve the Tribunal's actual findings and the limits of the question referred; do not substitute a general mixed-funds assumption for the record. For merger, verify whether the Supreme Court refused leave or disposed of an appeal, and keep finality distinct from the precedential reach of reasons.

The historical tax result needs a strong later-law boundary. The checked 2011 compilation records section 40A(5)'s omission from 1 April 1989 and later section 17(2) fringe-benefit text. Separately, the checked Department-hosted Rule 3(7)(i) prescribes valuation of employer interest-free/concessional loans, subject to its provisos. Those later provisions prevent presentation of this case as a timeless loan-perquisite exemption. The Rule check is bounded to that clause, not certification of today's tax regime, a full amendment history or a 2025 Act mapping.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, company appeal, year and Rs 5,21,241 addition

Source url: [Open cited source](#)

Pdf pages: 1; 5; 6

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Director appeals, two years and procedural history

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Distinct prior company reference and certificate appeal; source amount/date conflicts

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: 1984 insertion, 1985 omission and dismissal/merger distinction

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Review of competing High Court authorities and adopted historical interpretation

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Tribunal fact limit and every present disposition

Source url: [Open cited source](#)

Pdf pages: 24; 25

Paragraphs: Unnumbered judicial text

Source role: judicial text

7.

Topic: Later section 17 perquisite text and statutory history

Source url: [Open cited source](#)

Pdf pages: 191

Paragraphs: Section 17(2)(vi)–(viii), especially (viii), and footnote 14

Source role: bounded historical statutory text

8.

Topic: Omission of section 40A(5)

Source url: [Open cited source](#)

Pdf pages: 303

Paragraphs: Section 40A(5) omission entry and footnote 51

Source role: bounded historical statutory text

9.

Topic: Later employer-loan valuation rule and both provisos

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Rule 3(7) opening and complete clause (i)

Source role: bounded later rule 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: 25 PDF pages; SHA-256

ad9652e52fe1eeb62d1ae7d5f9f3763100693036cd06d0ef120379dc6db33790. Original bytes preserved.

Complete unnumbered judicial text physical pages 5–25/SCR 1173–1193, including footnotes and quoted precedents; pages 1–4 are reporter material. The earlier company appeal and cited-case facts are kept distinct from the three appeals disposed of here.

Open cited source rendition

The operative order names exactly three present appeals. The earlier CA 424/1999 and its sister-concern/agriculturist issues must not be counted as fresh present dispositions.; Physical page 7 prints 1 August 1977 in a quoted High Court passage; the Court's own account at page 9 gives 1 August 1997. Both are retained as a source conflict, not silently reconciled.; The same quoted passage on page 7 contains Rs 90,640, whereas the earlier reference reproduced on page 9 gives Rs 93,640. Neither amount is the present company addition of Rs 5,21,241.; The quoted page 7 account also describes the prior reference's direction inconsistently with the Supreme Court's express account at pages 5 and 24–25. The present result is taken from the Supreme Court's own reasons and operative order.; Page 24 labels P. Krishna Murthy as a Calcutta High Court case, although pages 19 and 21 identify it as Karnataka. The note does not manufacture another authority from that inconsistency.; No additional assessment years or exact addition amounts for the director are inferred. The house-building, motor-car and other loan facts within cited cases are not automatically facts of the present loans.; The 1984/1985 provisions and CBDT circulars are read as reproduced/discussed in this judgment, not separately authenticated circular originals. The later Rule 3 source is a bounded later-text comparison, not a comprehensive update.

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: 25

SHA-256: ad9652e52fe1eeb62d1ae7d5f9f3763100693036cd06d0ef120379dc6db33790

official department hosted historical statutory compilation - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

official department hosted later rule text - PDF pages: 5

SHA-256: 9875090f412aeb7e554bd184f70953aafea064a2b1c01a0d882d54138f40c8a

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