

Commissioner of Income Tax, Trivandrum v. M/s Anand Theatres etc. etc.

Civil Appeal No. 4758 of 1998 and connected proceedings (full list below)

[2000] Supp. 1 SCR 338 | 2000-05-12

Whether the hotel and cinema-theatre buildings in the common appeals were themselves plant, qualifying for depreciation as plant under the historical sections 32 and 43(3), rather than buildings used as business premises.

32 (historical depreciation provisions, including former section 32(1)(v)) | 43(3) (historical definition of plant) | 33 (contextual legislative comparison)

Two-judge bench | A.P. Misra, J. | M.B. Shah, J.

Assessment years: 1986–87 (lead Civil Appeal No. 4758 of 1998 only)

Historical hotel/cinema holding; retained questions and later limits matter

Anand Theatres decides the common hotel/cinema building-as-plant claim under historical depreciation provisions. It is not a universal bar for every operational structure, and specified 1999 appeals retained an additional question. Karnataka Power's limitation is checked through expressly attributed later judicial passages; its complete independent original was not obtained. Victory Aqua is an ITATonline judicial-text reproduction, and Safari supplies bounded later context only. The compiled section 43(3) exclusion of buildings/furniture/fittings takes effect from 1 April 2004; the old hotel-building allowance and quoted rates are historical. Comprehensive later treatment, retained-appeal outcomes, current eligibility and any 2025 Act mapping remain unverified.

01 FACTS OF THE CASE

The Court heard a common group of Revenue and assessee appeals concerning hotel and cinema-theatre buildings. It used Civil Appeal No. 4758 of 1998 as the factual illustration. For assessment year 1986–87, Anand Theatres claimed 15% depreciation on its theatre building as plant; the AO allowed 5% as a building. CIT(A) accepted the plant claim, and the Tribunal treated the entire theatre building as plant and also allowed extra-shift allowance. Revenue had alternatively argued before the Tribunal that any plant treatment should be confined to the auditorium portion and relevant fittings, rather than the entire building (SCR 342–343; PDF pages 5–6).

The Kerala High Court answered the referred building-as-plant and higher-depreciation questions for the assessee, following Abhilash Theatre. The Supreme Court expressly identified the Abhilash appeals, Civil Appeal Nos. 5198–5199 of 1998, and Hotel Luciya, Civil Appeal No. 15 of 1999, as part of the common batch. The Woodlands Hotel discussion also concerns the proceedings in which leave was granted at the opening. Other connected appeals are listed, but their individual assessment years and factual records are not separately narrated; the lead year is not assigned to them (SCR 343, 347–348; PDF pages 6, 10–11).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read the inclusive definition of plant in section 43(3) in the context of the historical depreciation scheme. Section 32 and the Rules separately recognised buildings, machinery and plant, furniture and fittings, and other assets. The former hotel-building allowance in section 32(1)(v), references to machinery or plant installed in hotel premises, and the differentiated asset classes supported treating the hotel or theatre building itself as premises rather than apparatus. A dictionary meaning or an artificial extension drawn from another statute could not displace that structure (SCR 358–369; PDF pages 21–32).

The distinction was between the place in which the relevant business was carried on and the apparatus with which it was carried on. Attractive design, suitability for the business and the fact that the business required premises did not, for these hotel and cinema claims, make the building a tool of trade. The Court also found the functional test unfulfilled in these cases and declined to treat it as conclusive in every case. Taj Mahal Hotel concerned sanitary and pipeline fittings, not a holding that the hotel building itself was plant. The dry dock in Barclay, Curle operated as part of the mechanism of docking ships; Anand distinguished that operational function from merely providing premises (SCR 368–375; PDF pages 31–38).

The Court distinguished Dr. B. Venkata Rao's nursing-home result as based on its particular factual findings, rather than resolving the legal submissions in this batch. It also expressly separated special fittings or atmosphere-control equipment from the building housing them and recognised the exceptional operational character of a dry dock. Those passages and the later bounded checks below prevent conversion of the hotel/cinema result into a universal rule that every structure or purpose-built facility can never be plant (SCR 346–347, 375; PDF pages 9–10, 38). The lengthy domestic and English authorities are quoted or discussed precedents, not separately adjudicated assets in these appeals.

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

03 JUDICIAL DECISION

The common question was answered for Revenue: the buildings used as hotels or cinema theatres could not receive depreciation as plant under the provisions considered. The judgment disposed of assessee Civil Appeal Nos. 55–57 of 2000 and Revenue Civil Appeal Nos. 4758, 5198–5199 and 5391 of 1998; 15, 2784–2786, 2787 and 3690 of 1999; and 3434–3435 of 2000 arising from SLP (C) Nos. 4373–4374 of 1999, without costs (SCR 377–378; PDF pages 40–41).

Civil Appeal Nos. 241, 242–243, 244, 245 and 246–248 of 1999 were expressly retained for hearing an additional question in August 2000. Counsel could apply within four weeks concerning any other additional question raised and decided by the High Court but left out. The judgment does not decide those additional questions or give their eventual results. Its editorial final line summarising Revenue appeals as allowed and assessee appeals as dismissed must be read subject to that express judicial reservation (SCR 378; PDF page 41).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the common hotel/cinema building-as-plant issue

Specified Revenue and assessee appeal groups disposed of consistently with the Revenue answer, without costs; specified 1999 appeals retained for an additional question

Common classification question decided; not every question in every connected appeal finally disposed of

Historical hotel/cinema-building claim. No universal prohibition covering every operational structure; no disposition of the retained additional questions; no current rate or automatic entitlement for other structures.

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

05 AKHB REVIEW POINT

Separate the asset claimed from the business carried on in it. A claim for the whole hotel or cinema shell is different from a claim for independently identifiable machinery, fittings or a structure performing an operative technical function. Establish the function and the factual findings rather than relying solely on special design, customer attraction or the building's necessity to the business. Anand's result does not deny depreciation as a building, and it does not make every asset inside a hotel or cinema ineligible as plant.

Bounded later judicial context: the complete ITATonline reproduction of Victory Aqua Farm (4 September 2015), paragraphs 4–6, adopts the functional test for specially designed prawn ponds and reproduces Karnataka Power Corporation, (2002) 9 SCC 571, paragraphs 5–9. In that attributed passage, the generating station was found inseparable from its generating system, and Anand's hotel/cinema observation was not read as covering every building. Safari Retreats, [2024] 10 SCR 793, paragraphs 50–52, reproduces the same reasoning and expressly states in paragraph 51 that the three-judge Karnataka Power ruling limits the two-judge Anand decision to hotels and cinema theatres. Karnataka Power's independent complete original was not obtained; its treatment here is verified through these identified later judicial passages, not claimed as an independent full-source review. Victory concerns specially designed ponds; it is not a ruling that every natural pond or building qualifies. Safari is cited only for its later description of Anand, with no present GST-credit conclusion or certification of Safari's subsequent treatment.

Historical statutory guardrail: the 2011 official-hosted compilation's section 43(3) excludes buildings and furniture and fittings; its footnote 13 records insertion by the Finance Act, 2003 with effect from 1 April 2004. Footnote 12 separately records the 1995 exclusion of tea bushes and livestock retrospectively from 1 April 1962. This later wording must not be inserted into the reasoning delivered in May 2000, nor ignored when considering a later-year claim. The same compilation records the block-of-assets substitution in section 32(1)(ii) from 1 April 1988 and omission of former hotel-building clause 32(1)(v) from that date. Thus Anand's statutory quotations, the lead 15% claim and 5% allowance, and its former hotel allowance are historical, not a current rate schedule or a continuing hotel concession. The cited compilation and its amendment-history footnotes establish only this bounded history, not present-law coverage.

For use in another case, verify the applicable assessment-year text, precise asset, relevant depreciation/investment-allowance conditions and later authorities. Comprehensive later treatment, the retained appeals' subsequent outcomes, and any Income-tax Act, 2025 mapping remain unverified.

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

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 4758 of 1998 / Civil Appeal Nos. 5198–5199 of 1998 / Civil Appeal No. 5391 of 1998 / Civil Appeal No. 15 of 1999 / Civil Appeal No. 241 of 1999 / Civil Appeal Nos. 242–243 of 1999 / Civil Appeal No. 244 of 1999 / Civil Appeal No. 245 of 1999 / Civil Appeal Nos. 246–248 of 1999 / Civil Appeal Nos. 2784–2786 of 1999 / Civil Appeal No. 2787 of 1999 / Civil Appeal No. 3690 of 1999 / Civil Appeal Nos. 55–57 of 2000 / Civil Appeal Nos. 3434–3435 of 2000, arising from SLP (C) Nos. 4373–4374 of 1999

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, bench, appeal roster and lead facts

Source url: [Open cited source](#)

Pdf pages: 1; 4; 5; 6

Paragraphs: SCR 338, 341–343; unnumbered opening

Source role: reported metadata and judicial text

2.

Topic: Precedents distinguished and named common proceedings

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: SCR 345–348; Taj Mahal Hotel, Scientific Engineering House, Dr. B. Venkata Rao, Hotel Luciya and Woodlands

Source role: judicial text with attributed precedents

3.

Topic: Historical provisions and statutory scheme

Source url: [Open cited source](#)

Pdf pages: 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31

Paragraphs: SCR 358–368; statutory extracts, table and Court's scheme analysis

Source role: judicial text and historical statutory quotation

4.

Topic: Premises/apparatus distinction, separate equipment and dry-dock exception

Source url: [Open cited source](#)

Pdf pages: 32; 33; 37; 38

Paragraphs: SCR 369–370, 374–375; unnumbered judicial discussion

Source role: judicial text

5.

Topic: Common holding, exact appeal dispositions and reserved additional question

Source url: [Open cited source](#)

Pdf pages: 40; 41

Paragraphs: SCR 377–378; enumerated reasons and judicial operative ending before editorial B.K.M. summary

Source role: judicial text

6.

Topic: Victory Aqua facts, quoted Karnataka Power limitation and functional-test result

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: Rendition paragraphs 1–6; paragraph 4 embeds Karnataka Power paragraphs 5–9; consequential order paragraphs 7–8

Source role: later judicial text third party reproduction

7.

Topic: Safari's expressly attributed larger-bench limitation of Anand

Source url: [Open cited source](#)

Pdf pages: 48; 49; 50; 51; 52; 53; 54; 55

Paragraphs: Paragraphs 49–52; particularly paragraph 51; not a current-GST proposition

Source role: bounded later judicial comparison

8.

Topic: Historical section 32 replacement and former hotel allowance omission

Source url: [Open cited source](#)

Pdf pages: 206; 207; 212

Paragraphs: Compiled section 32; page 207 footnote 93; page 212 footnote 17

Source role: bounded official hosted compilation and editorial history footnotes

9.

Topic: Later section 43(3) exclusions and effective dates

Source url: [Open cited source](#)

Pdf pages: 315

Paragraphs: Section 43(3); amendment-history footnotes 12–13; printed page 1.274

Source role: bounded official hosted compilation and editorial history footnotes

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

M.B. Shah, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

RULES IDENTIFIED IN THE JUDGMENT

Income-tax Rules, 1962, rule 5 and historical Part I of Appendix I

SPECIFIED LATER CHECKS AND THEIR LIMITS

1.

Authority: Karnataka Power Corporation, (2002) 9 SCC 571

Status: quoted passages checked independent full original not obtained

Finding: Karnataka Power paragraphs 5–9 reproduced in Victory Aqua paragraph 4 and paragraphs 5–8 reproduced in Safari paragraph 50 limit the hotel/cinema observation and uphold plant treatment of the factually integral generating system for investment allowance. Three-judge-bench status is expressly stated by Safari paragraphs 50–51.

Source filenames: victory_aqua_2015_itatonline.pdf; 2024_10_793_859_EN.pdf

Source pdf pages

Victory: 2; 3

Safari: 52; 53; 54

2.

Authority: Victory Aqua Farm, 4 September 2015

Status: complete third party judicial text reproduction read

Finding: Rendition paragraphs 4–6 apply the quoted Karnataka Power reasoning to specially designed prawn ponds; the contrary natural-pond premise is rejected on the findings. Revenue appeals dismissed and assessee appeals allowed. No independent authenticated official original obtained.

Source filenames: victory_aqua_2015_itatonline.pdf

Source pdf pages: 1; 2; 3

3.

Authority: Safari Retreats, 3 October 2024

Status: bounded later primary judgment passages checked

Finding: Paragraph 51 expressly records Karnataka Power's larger-bench limitation of Anand to hotel/cinema buildings; used only for that later judicial description. No certification of current GST consequences or Safari's subsequent statutory/judicial treatment.

Source filenames: 2024_10_793_859_EN.pdf

Source pdf pages: 48; 49; 50; 51; 52; 53; 54; 55

4.

Authority: Sections 32 and 43(3), 2011 official-hosted compilation

Status: bounded compiled text and history footnotes checked

Finding: Section 43(3) building/furniture/fittings exclusion and footnote 13 (Finance Act 2003; effective 1 April 2004), footnote 12 (1995 tea-bush/livestock exclusion; retrospective 1 April 1962), section 32 block-of-assets history and omission of old hotel-building clause from 1 April 1988 checked. No current-law audit.

Source filenames: DOR_IT_Act_English_2011_compilation.pdf

Source pdf pages: 206; 207; 212; 315

DISTINCT APPEAL GROUPS AND QUESTIONS RETAINED

1.

Case numbers: 4758/1998

Identity: Anand Theatres; lead facts, AY 1986–87 only

Role: Revenue

Result: Disposed of under common Revenue answer; without costs

Source pdf pages: 5; 6; 41

2.

Case numbers: 5198/1998; 5199/1998

Identity: Abhilash Theatre proceedings expressly identified in the judicial text

Role: Revenue

Result: Disposed of under common Revenue answer; without costs

Source pdf pages: 6; 41

3.

Case numbers: 5391/1998

Identity: Separate assessee identity and assessment year not supplied in the judicial narrative

Role: Revenue

Result: Disposed of under common Revenue answer; without costs

Source pdf pages: 4; 41

4.

Case numbers: 15/1999

Identity: Hotel Luciya proceedings expressly identified

Role: Revenue

Result: Disposed of under common Revenue answer; without costs

Source pdf pages: 10; 41

5.

Case numbers: 2784/1999; 2785/1999; 2786/1999; 2787/1999; 3690/1999

Identity: Other Revenue appeal units; individual facts/years not separately narrated

Role: Revenue

Result: Disposed of under common Revenue answer; without costs

Source pdf pages: 4; 41

6.

Case numbers: 3434/2000; 3435/2000

Originating slps: 4373/1999; 4374/1999

Identity: Woodlands Hotel discussion; source inconsistently labels the SLP numbers as Civil Appeals in the body

Role: Revenue

Result: Leave granted at opening and Civil Appeals disposed of under common Revenue answer; without costs

Source pdf pages: 4; 5; 11; 41

7.

Case numbers: 55/2000; 56/2000; 57/2000

Identity: Assessee appeal units; separate facts/years not narrated

Role: Assessee

Result: Disposed of against assessees on common issue; without costs

Source pdf pages: 4; 41

8.

Case numbers: 241/1999; 242/1999; 243/1999; 244/1999; 245/1999; 246/1999; 247/1999; 248/1999

Identity: Respondents identified as assessees in the additional-question direction; individual names/years not supplied

Role: Revenue appeals (assessees described as respondents)

Result: Common issue answered for Revenue; additional question retained for hearing in August 2000. Later disposition not verified.

Source pdf pages: 41

SOURCE & VERIFICATION

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

Identified source rendition: 41 PDF pages; SHA-256

58b2384e30c0da3b9425d34e4217053fc9c252fce733b347978da8a3b9233cfc. Original bytes preserved.

Complete unnumbered judicial text begins with Shah, J. granting leave on physical page 5/SCR 342 and ends with Ordered accordingly on physical page 41/SCR 378. Pages 1–4 are report metadata/headnote; bottom-line disposition after B.K.M. on page 41 is editorial. No adjacent judgment.

Open cited source rendition

The main judicial text is unnumbered in this SCR rendition. Physical PDF pages and printed SCR pages are the primary pins; numbered paragraphs in later quotations are not silently imported into the original report.; The operative judicial text at SCR 378 expressly reserves additional questions in CA 241, 242–243, 244, 245 and 246–248/1999. The publisher's closing summary cannot be used to mark all connected matters completely disposed of.; SCR 348 calls 4373–4374/1999 Civil Appeals; the opening grants leave in SLP (C) Nos. 4373–4374/1999, and the operative ending identifies resulting CA 3434–3435/2000. This discrepancy is disclosed rather than silently harmonised.; The lead 15% plant claim and 5% building allowance come from the judicial facts. The headnote says the general plant rate is 10%, while the reproduced historical table at SCR 363 has displaced/aligned rate entries. No current or universal rate is reconstructed from that table.; The cover gives the High Court reference as I.T.A. No. 85/1996, while the judicial narrative calls it ITR No. 85/1996. No new docket identity is inferred.; Victory Aqua is a third-party typeset judicial-text reproduction, not a signed official original. It prints inconsistent 14 October 2014/2004 High Court dates and an Anand ITR volume of 224 in the embedded quotation. Those artefacts are not adopted or used to recalculate the history.; The complete independent Karnataka Power source was not obtained. Its later treatment is presented only through the explicitly attributed judicial quotations identified in this note.; Safari's later primary text is read only within stated bounds. Its CGST setting and subsequent treatment are outside this note; it is not evidence of automatic current income-tax or GST eligibility.; The government-hosted statutory compilation has Taxmann amendment-history footnotes. Those footnotes, as distinct from the compiled statutory wording, support only the expressly stated historical dates; no comprehensive amending-Gazette or current-law review is claimed.

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: 41

SHA-256: 58b2384e30c0da3b9425d34e4217053fc9c252fce733b347978da8a3b9233cfc

third party judicial text reproduction - PDF pages: 3

SHA-256: f7954fc783f9831f039fbdfe7a499c16ed30b8c093ede406e3bce55a3c1dd4a8

reported judgment - PDF pages: 67

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