

Indian Hotels Co. Ltd. and Ors. v. Income Tax Officer, Mumbai and Ors.

Transferred Case (Civil) Nos. 20–24 of 1989 / Civil Appeal No. 1774 of 1992 / Civil Appeal No. 4443 of 2000, arising from SLP (Civil) No. 324 of 1998

[2000] Supp. 2 SCR 261 | 2000-08-08

Whether the Taj Flight Kitchen could claim historical section 80J industrial-undertaking relief without satisfying the separate hotel-business conditions, and whether the companion hotel companies were entitled to section 32A investment allowance on the footing that preparing food was manufacture or production.

80J(1), proviso, (4)(iii) and (6)(d) (historical incentive provisions) | 32A(1), proviso (c), and (2)(b)(ii)–(iii) (historical investment allowance) | 33(1)(b)(B)(ii) (historical hotel development-rebate context) | 256(2) (procedural background)

Three-judge bench | S.P. Bharucha, J. | M.B. Shah, J. | Ruma Pal, J.

Assessment years: 1976-77, 1977-78, 1978-79

Historical hotel incentives; preserve every appeal unit

This judgment concerns the specified section 80J/32A schemes and these hotel/ancillary-kitchen facts. It does not deny all hotel relief under section 80J(6) or decide every food-processing activity under modern law. Revenue TC 22–23 succeeded; assessee TC 20, 21 and 24 and both civil appeals failed, with no costs. Hotel Shashi's year is unstated. Arihant Tiles is a bounded subject comparison only; comprehensive later treatment and 2025 Act mapping remain unverified.

01 FACTS OF THE CASE

The five appeals pending before the Tribunal were transferred to the Supreme Court under Article 139A. Indian Hotels and others brought TC Nos. 20, 21 and 24 for AYs 1977–78, 1978–79 and 1976–77 respectively; Revenue brought TC Nos. 22 and 23 for AYs 1977–78 and 1978–79. At the hearing the parties confined submissions to Indian Hotels' Flight Kitchen, so other contentions were not dealt with. CIT(A) had treated the large, organised and mechanised preparation of airline food packages as a separate industrial undertaking and directed section 80J deduction on its capital, without requiring hotel approval (SCR 265B–H).

The companion CA No. 1774 of 1992 concerned Hotel & Allied Traders' section 32A claim for AY 1978–79, rejected by the Tribunal and followed by the Kerala High Court's refusal to call for a reference. Hotel Shashi, operating Valley View Resort, challenged a corresponding Bombay High Court refusal after its section 32A claim failed; leave was granted in SLP No. 324 of 1998, which became CA No. 4443 of 2000. The report does not identify that company's assessment year (SCR 266A–E; 274F–G).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read section 80J's separate treatment of an industrial undertaking and a hotel business, together with the relevant investment-allowance and development-rebate provisions. Indian Hotels' own description of the Flight Kitchen as an ancillary unit tied it to the hotel business. It therefore could not claim the industrial-undertaking route in place of satisfying section 80J(6), including the approval requirement in clause (d) (SCR 266F–270E).

For the provisions under consideration, the Court held that preparing food packets or food for hotel service was processing raw food for consumption, not the manufacture or production of an article or thing by the industrial undertaking contemplated by the incentive. Organisation, scale and machinery did not alter that conclusion. The Finance Act definition invoking manufacture or processing of goods could not replace section 32A's manufacture-or-production requirement. The Court stressed the statutory context, distinguished the separate hotel and industrial schemes, and rejected the reasoning in Hotel Belle Vue that processing food necessarily amounted to manufacture (SCR 270F–273G).

The report discusses N.C. Budharaja and Sterling Foods and records the supporting reasoning in Casino, Berry's Hotels, Fariyas Hotels and S.P. Jaiswal Estates. Those comparisons belong to the reasoning in this judgment; they do not create an exemption or disqualification under every other statute or for every food-processing enterprise (SCR 271E–274E).

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

03 JUDICIAL DECISION

Revenue's TC Nos. 22 and 23 were allowed; the Flight Kitchen was held not entitled to the section 80J benefit claimed. The assessee's TC Nos. 20, 21 and 24, Hotel & Allied Traders' CA No. 1774 of 1992, and Hotel Shashi's CA No. 4443 of 2000 were dismissed. There was no order as to costs. No remand was ordered (SCR 274F–G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue in all decided units

Revenue transferred cases allowed; assessee transferred cases and both civil appeals dismissed; no order as to costs

Final determination of the incentive questions argued, confined to the Flight Kitchen in the transferred matters

Not a holding that a hotel could never qualify under section 80J(6), nor a universal exclusion of independent food manufacturers or all processing activities from every tax incentive.

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

05 AKHB REVIEW POINT

Identify the precise statutory route before testing machinery or output: hotel-business conditions, industrial-undertaking conditions and the relevant year cannot be treated as interchangeable. Preserve evidence about whether an activity is ancillary to hotel operations or a genuinely distinct undertaking; the finding here rested on the former and on the statutory scheme. A claim of large-scale mechanisation did not cure the failed statutory classification.

Do not turn this historical hotel result into the proposition that production can never be wider than manufacture. As a bounded subject-matter comparison, Arihant Tiles (2009), paragraphs 14–20, separately examined the multi-stage conversion of marble blocks into polished slabs and tiles under the then section 80IA and stressed the wider scope of production. It does not purport in the reviewed text to overrule Indian Hotels. The comparison reinforces the need to examine the activity and the exact provision; it is not comprehensive later-treatment clearance.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and consolidated case numbers

Source url: [Open cited source](#)

Pdf pages: 1; 4

Paragraphs: Cover; SCR 264D–G

Source role: reported metadata and jurisdiction

2.

Topic: Transferred cases, exact assessment-year allocation and hearing limitation

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 265B–H

Source role: judicial text

3.

Topic: Companion appeals and absence of stated Hotel Shashi year

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 266A–E

Source role: judicial text

4.

Topic: Historical statutory text and ancillary hotel classification

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9; 10

Paragraphs: SCR 266F–270E

Source role: judicial text

5.

Topic: Manufacture/production reasoning and statutory differentiation

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13; 14

Paragraphs: SCR 270F–274E

Source role: judicial text

6.

Topic: Case-by-case operative disposition and costs

Source url: [Open cited source](#)

Pdf pages: 14

Paragraphs: SCR 274F–G

Source role: judicial text

7.

Topic: Bounded comparison: production and stepwise marble transformation

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13

Paragraphs: Paragraphs 14–20; SCR 30–33

Source role: bounded comparison judicial text

OTHER PROVISIONS CONSIDERED

Article 139A, Constitution of India; Finance Act, 1979, section 2(7)(c) (industrial-company definition argued by assesseees)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

M.B. Shah, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

COMPARISON OF DISTINCT HISTORICAL STATUTORY SETTINGS

1.

Case: Income Tax Officer, Udaipur v. Arihant Tiles and Marbles (P) Ltd.

Asset id: 2009_16_21_33

Comparison type: Later subject-matter comparison, not claimed direct treatment

Finding: Historical section 80IA and stepwise marble transformation; paragraphs 14–20 distinguish production from the narrower manufacture inquiry. Does not establish a hotel or food-processing result under other provisions.

COMPANION CASE TITLES

Hotel & Allied Traders Pvt. Ltd. v. Commissioner of Income Tax; Hotel Shashi Pvt. Ltd. v. Commissioner of Income Tax, Bombay

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 14 PDF pages; SHA-256

af64fc33ec8064def43574b4b2a8d0a3f6ccd3dd4844e77ff10ed4129bb6fb9e. Original bytes preserved.

Entire unnumbered judicial text, physical pages 5–14/SCR 265–274, including all five transferred cases, both civil appeals, quoted statutory provisions and attributed precedent passages. Pages 1–4 are editorial/jurisdiction material; no adjacent judgment.

Open cited source rendition

TC 20: AY 1977–78; TC 21: AY 1978–79; TC 24: AY 1976–77 (assessee matters). TC 22: AY 1977–78; TC 23: AY 1978–79 (Revenue matters). CA 1774: AY 1978–79. The Hotel Shashi/CA 4443 assessment year is not stated and is not inferred.

The five transferred cases are not all Revenue cases: the opening judicial paragraph and operative ending identify each side and year. Other transferred-case contentions were not argued and were not adjudicated.; The main source's judicial text is unnumbered. Physical PDF pages and SCR page/letter positions are used; paragraph numbers from another rendition are not imported.; The Hotel Shashi assessment year is unstated. The report uses "Hotel & Allied Products" in one discussion passage (SCR 270H), but the cover, case-unit heading and operative order identify Hotel & Allied Traders. The latter is retained.; The headnote gives a different Berry's Hotels ITR page from the judicial discussion (165 versus 615); no independent reporter citation to that precedent is certified.; Arihant Tiles is an editorial comparison on different facts and a different incentive provision, not verified direct treatment of Indian Hotels or current-law certification.

The primary holding applies the section 80J and section 32A schemes reproduced and discussed for the stated years. Hotel relief under section 80J(6) had separate conditions, including Central Government approval; the industrial-undertaking limb cannot be substituted merely because food is prepared. No present incentive entitlement, universal classification under other statutes, or automatic application of a later definition of manufacture 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: 14

SHA-256: af64fc33ec8064def43574b4b2a8d0a3f6ccd3dd4844e77ff10ed4129bb6fb9e

bounded comparison judgment - PDF pages: 13

SHA-256: 41153cbafa29696c2866cf9d87430a51ca4ba5b312ea8e96a9eec1e0360fdf27

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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