

Director of Income Tax v. M/s. Bharat Diamond Bourse

Civil Appeal No. 8211 of 2001 / Civil Appeal No. 8212 of 2001

[2002] Supp. 5 SCR 95 | 2002-12-16

Whether the Bourse's trade-promotion objects were charitable, and, independently, whether Rs 70 lakh placed with a founding subscriber without adequate security or interest caused loss of section 11 exemption despite that charitable character.

2(15) (then applicable) | 11(1)(a) | 12 (context) | 12A (context) | 12AA (judgment's general procedural description) | 13(1)(c)(ii) | 13(2)(a) | 13(3)(a) | 13(3)(cc) (alternative contention) | 131 | 260A

Two-judge bench | Ruma Pal, J. | B.N. Srikrishna, J.

Assessment years: 1989-90, 1990-91

Charitable status upheld, but founder loan defeated exemption; date conflict

The Bourse succeeded on charitable character but lost section 11 exemption for AYs 1989-90 and 1990-91 because of the Rs 70 lakh founder loan without adequate security or interest. No registration-cancellation order or rule against all genuine deposits is stated. Apply the historical statutory text; later GPU rules are a bounded comparison only. The SCR cover prints 16 December 2002, conflicting with corpus metadata's 6 December; varying statutory labels and premises descriptions are also retained as cautions. Comprehensive later treatment and current-law mapping remain unverified.

01 FACTS OF THE CASE

Bharat Diamond Bourse, incorporated in August 1984 as a company limited by guarantee, was a non-profit service organisation intended to facilitate diamond exports, centralise customs clearance and improve security and international competitiveness. MMTC initially coordinated facilities; the Bourse took over operations and service-charge collection from 1 April 1988. Its locker and related service receipts were considered against these overall objects (physical PDF pages 6-12/SCR 100-106).

For AYs 1989-90 and 1990-91, the AO denied section 11 both on charitable-purpose grounds and because Rs 70 lakh had been advanced without interest, security or a concluded written agreement to Bharat S. Shah, a subscriber to the memorandum and honorary secretary. CIT(A) affirmed. The Tribunal reversed both grounds, accepting that the payment was a premises-related deposit, and the High Court dismissed Revenue's section 260A appeals. The Supreme Court examined charitable character and the prohibited-benefit issue separately (pages 6-8 and 12-14).

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

02 DISCUSSION BY THE HON'BLE COURT

On charitable character, the Court applied the then-governing dominant-purpose approach drawn from *Surat Art Silk* and *Andhra Chamber of Commerce*. The Bourse's principal objects of export promotion and common trading facilities advanced general public utility. Ancillary earnings and incidental benefits to members did not on these facts displace that charitable object. The Court therefore agreed with recognition of the institution's charitable status; that finding did not settle the independent section 13 bar (pages 9–12/SCR 103–106).

Section 13(1)(c)(ii) excludes the benefit where income or property is used or applied for a section 13(3) person. Section 13(2)(a), as quoted, covers lending during any period of the relevant previous year without adequate security or adequate interest or both. The Court rejected the account of an ordinary lease deposit. Shah was neither the builder nor an owner of suitable premises when paid. His section 131 response described acquisition by himself, family and associates, with future rental terms yet to be agreed. There was no established procurement in the Bourse's own name, no settled lease terms and no identified builder in its explanation. The Court considered the documents and their timing, held the Tribunal's uncritical acceptance perverse, and restored the AO/CIT(A) finding of a Rs 70 lakh loan for substantial periods without interest or adequate security (pages 13–18/SCR 107–112).

The narrative records later repayment with 9% interest following arbitration, but the Court nevertheless sustained the finding concerning use of the funds in the relevant previous years. This result is not converted into a rule invalidating every genuine rent deposit or every oral agreement; the adverse characterisation rested on the particular evidence (pages 17–18).

On the recipient's status, the Court did not predicate relief on treating an honorary secretary as a manager. It noted that the articles gave the secretary no special managerial powers and held instead that Shah was a founder under section 13(3)(a): he was one of the subscribers whose acts brought this company into existence. A financial contribution was not an indispensable test of founding, and the statutory distinction between founders and substantial contributors mattered. The fact that there were other founders did not remove Shah from the prohibited category (pages 18–21/SCR 112–115).

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

03 JUDICIAL DECISION

The Court held that the Rs 70 lakh loan to founder Bharat Shah without adequate security or interest caused loss of section 11 benefit for AYs 1989–90 and 1990–91 under section 13(3)(a) read with section 13(1)(c)(ii). It set aside the High Court judgments and Tribunal orders for those years and affirmed the AO/CIT(A) conclusion to that extent. Revenue's appeals were allowed without costs; no remand was ordered. The Court's favourable conclusion on charitable character remained distinct from this adverse annual-exemption outcome (pages 20–21/SCR 114–115).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on section 11 exemption for both years; assessee on underlying charitable-purpose character

Revenue appeals allowed to the stated extent; High Court and Tribunal orders set aside; AO/CIT(A) denial sustained; no costs or remand

Final exemption denial based on prohibited founder benefit, notwithstanding charitable objects

No order cancelling registration is stated. The Court did not hold that the Bourse lacked charitable objects, that every secretary is a manager, or that every premises advance is a prohibited loan.

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

05 AKHB REVIEW POINT

Charitable objects, registration and annual exemption require separate checks. For related-person transactions, retain contemporaneous terms, the real recipient and property-acquisition structure, interest/security conditions, approval records and the period for which funds were available. A label such as deposit and the recipient's asserted solvency do not substitute for evidence of the actual arrangement. Map the recipient to the applicable section 13(3) category on proved facts: here founder status supplied the ground, not an automatic equation of honorary office with management. The Court's interference with Tribunal findings was expressly justified by perversity on this record.

Bounded later comparison: AUDA (19 October 2022), paragraphs 200–205 and 253(A.1–A.4), explains how the subsequently amended section 2(15) changes analysis of trade-promotion bodies and fee-based commercial services. Its connected-activity and period-specific quantitative requirements must not be projected back into the Bourse's AYs 1989–90 and 1990–91. Conversely, this 2002 dominant-purpose ruling cannot alone establish eligibility under a later GPU regime. The comparison does not reopen or qualify the Bourse judgment's independent founder-benefit disposition and is not a comprehensive subsequent-treatment check.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Reported-cover date, bench, case numbers and assessment-year mapping

Source url: [Open cited source](#)

Pdf pages: 1; 5; 6

Paragraphs: Cover; jurisdictional preface; opening judicial text

Source role: reported metadata and judicial text

2.

Topic: Applicable exemption and prohibited-benefit provisions

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Unnumbered statutory discussion

Source role: judicial text

3.

Topic: Objects, facilities, dominant purpose and charitable-status conclusion

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: Unnumbered first-issue reasoning

Source role: judicial text

4.

Topic: Loan/deposit dispute, documentary record and perversity

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15; 16; 17; 18

Paragraphs: Issue (A)

Source role: judicial text

5.

Topic: Founder rather than automatic manager classification

Source url: [Open cited source](#)

Pdf pages: 18; 19; 20

Paragraphs: Issue (B)

Source role: judicial text

6.

Topic: Exact annual-exemption result and final relief

Source url: [Open cited source](#)

Pdf pages: 20; 21

Paragraphs: Unnumbered operative ending

Source role: judicial text

7.

Topic: Bounded later GPU trade-promotion comparison

Source url: [Open cited source](#)

Pdf pages: 134; 135; 136

Paragraphs: 200–205

Source role: bounded later judicial comparison

8.

Topic: Later statutory regime expressly distinguished from the earlier years

Source url: [Open cited source](#)

Pdf pages: 160; 161

Paragraphs: 253(A.1–A.4)

Source role: bounded later judicial comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.N. Srikrishna, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 21 PDF pages; SHA-256

cdb943461d09aacd59102c0cf5a2b405ab30403d8126d5a21cbc14b9987807db. Original bytes preserved.

Complete unnumbered judicial text, physical PDF pages 6–21/SCR 100–115, beginning SRIKRISHNA, J. Earlier editorial headnote excluded; party submissions and lower-authority findings distinguished from the Court's conclusions. No adjacent judgment.

Open cited source rendition

Date printed on the visually inspected SCR cover: 16 December 2002. Corpus metadata records 6 December 2002. The displayed date follows this rendition, with the unresolved conflict expressly retained; no independent signed-original date certification is claimed.

Material date discrepancy: the SCR cover visibly prints 16 December 2002, whereas corpus metadata gives 6 December 2002. Display 16 December as the reported-cover date only and retain this warning; the conflict is not resolved by changing the preserved source.; The report is unnumbered. Pinpoints refer to physical PDF and SCR pages, not invented judgment paragraphs.; The introductory judicial text says registered under section 13 (page 6), while page 12 says registered under section 11. Page 7 itself identifies section 12A as the registration provision. The note reports recognised charitable status without adopting those inconsistent registration labels or certifying an historical registration order.; At page 13 the text refers to clause (d) in describing the section 13(2) consequence, but the quoted operative provision and final holding use section 13(1)(c)(ii). Pages 18 and 20 also contain varying references to section 13(3)(c), section 13(1) and section 13(1)(a). The founder ground is anchored to the express final section 13(3)(a)/13(1)(c)(ii) holding; the source is not silently amended.; The property narrative varies between second-floor and eleventh-floor premises, and between Diamond Village and a later Diamond Plaza reference. Those reported inconsistencies are not harmonised into an invented lease arrangement; the note relies on the Court's actual evidentiary conclusion.; Section 13(2)(a) uses disjunctive adequacy requirements; this case involved both missing interest and inadequate security. Do not restate it as requiring both defects in every case.; The report's general mention of section 12AA and the later AUDA comparison do not establish the statutory registration procedure or GPU limits applicable to AYs 1989–90 and 1990–91.

Civil Appeal No. 8211 of 2001 concerns AY 1989–90 and Civil Appeal No. 8212 of 2001 concerns AY 1990–91. The charitable-purpose analysis belongs to the then-applicable section 2(15), before the later GPU commercial-activity provisos. The judgment's general reference to section 12AA is not represented as a provision operative for those assessment years.

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 AUDA comparison has been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 21](#)

SHA-256: cdb943461d09aacd59102c0cf5a2b405ab30403d8126d5a21cbc14b9987807db

[bounded later comparison - PDF pages: 167](#)

SHA-256: ce01d61aa3407595bfb6be88f23d9fdddebaf44352576b5afa75c227eed65d54

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