

Berger Paints India Ltd. v. Commissioner of Income Tax, Calcutta

Civil Appeal Nos. 1081–1083 of 2004

[2004] 2 SCR 502 | 2004-02-17

Whether actually paid excise/customs duties embedded in closing stock could be denied deduction when Revenue had accepted the contrary section 43B interpretation in comparable authorities without just cause for departure.

43B | 263 | 256(1) | 261 | 141A (distinguished prior-case procedure)

Two-judge bench | K.G. Balakrishnan, J. | B.N. Srikrishna, J.

Assessment years: 1984-85, 1986-87, 1987-88

No automatic non-appeal bar; source year/amount conflicts

The taxpayer won the three historical paid-duty questions, with double deduction excluded. Revenue's failure to appeal elsewhere mattered because no just cause for departure was shown. Gangadharan's later three-judge clarification preserves justified appeals, public-interest and divergent-view cases. The source assigns differing amounts to the later two years; no repaired computation or current valuation rule is supplied. Comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

The paint manufacturer's AY 1984-85 claim concerned customs and excise duties actually paid during the previous year, including a component reflected in closing-stock valuation. The assessing authority allowed the full paid-duty claim; the Commissioner revised the assessment under section 263, and the Tribunal and High Court rejected the taxpayer's position. For AYs 1986-87 and 1987-88, the Tribunal allowed related paid-duty claims but the High Court answered Revenue's references against the assessee (physical pages 4–6).

The taxpayer relied on Lakhanpal National and its application by other High Courts and a Tribunal Special Bench. Revenue did not dispute that those decisions had remained unchallenged. The reported amounts and year allocations vary between the opening narration and the referred questions; the note does not invent a reconciled year-by-year computation.

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

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the attempt to distinguish Lakhanpal merely because it involved provisional assessment under section 141A. Its reasoning addressed section 43B and permitted the actual paid-duty deduction irrespective of the portion included in closing stock. The quoted Special Bench discussion expressly guarded against double deduction by a corresponding opening-stock adjustment in the following year (physical pages 7–8).

Revenue had accepted that interpretation in other cases and showed no just cause for taking the contrary position here. The Court applied the consistency principle with that qualification, rather than an unconditional bar arising from every earlier failure to appeal. It also said that, where the High Court departed from the other High Courts' uniform view, fairness called for granting a certificate under section 261 (physical pages 7–9).

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

03 JUDICIAL DECISION

The High Court judgments were set aside and the questions for AYs 1984-85, 1986-87 and 1987-88 were each answered in favour of the assessee. The appeals were allowed without costs. No new numerical refund, interest award or assessment remand was directed (physical page 9).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee in all three referred years

High Court judgments set aside; reference questions answered for assessee; no costs

Final on the stated historical paid-duty claims and unjustified inconsistent challenge

No double deduction, no automatic immunity from appeal whenever another case went unchallenged, and no present valuation/deduction rule independent of the governing statutory version.

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

05 AKHB REVIEW POINT

Keep the actual-payment deduction, inventory valuation and next-year adjustment aligned so the same duty is not deducted twice. For a consistency objection, identify the earlier legal conclusion, comparable facts, Revenue's acceptance and whether a legitimate reason for departure is shown; bare non-filing is not enough to settle every later dispute.

The later three-judge C.K. Gangadharan judgment of 21 July 2008 was actually read. Paragraphs 11–13 explain that non-appeal does not automatically bar a later Revenue appeal where there is just cause, public interest or conflicting judicial views; monetary-limit policy and revenue neutrality may also explain non-filing. Alleged mala fides must be established. That reference answer sent the individual appeals for disposal and did not reopen Berger's three historical outcomes. Comprehensive later treatment and the applicable present valuation provisions remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeals and lead claim

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Procedural history and conflicting amount/year recitals

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Unchallenged authorities, double-deduction protection and just cause

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Three year-specific answers and certificate observation

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Later qualification of non-appeal principle

Source url: [Open cited source](#)

Pdf pages: 8; 9

Paragraphs: 11–14

Source role: bounded later judicial text

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: 9 PDF pages; SHA-256

a717626199e38e95c1abcf9e7f1e701c0d64fbe6138d6a886ee897204b43790f. Original bytes preserved.

Complete unnumbered judicial text physical pages 4–9/SCR 505–510; preceding editorial material and attributed Tribunal quotations distinguished.

[Open cited source rendition](#)

Page 4 attributes Rs 24,28,428 to AY 1986-87 and Rs 77,81,739 to AY 1987-88, whereas pages 5–6 state Rs 77,81,948 for the AY 1986-87 question and Rs 24,28,428 for AY 1987-88. These source amount/year differences are not silently corrected.; The reproduced Special Bench observations about uniform company rates and revenue neutrality are attributed historical reasoning, not a statement that tax rates or timing never matter.; The final operative paragraphs distinguish ITR 213/1993 for AY 1984-85, ITR 122/1995 for AY 1986-87 and ITR 137/1995 for AY 1987-88. No single aggregate allowance is inferred.; The later Gangadharan comparison is on the litigation-consistency point. It does not purport to decide every subsequent statutory amendment affecting stock valuation or payment-based deductions.

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: 9](#)

SHA-256: a717626199e38e95c1abcf9e7f1e701c0d64fbe6138d6a886ee897204b43790f

[bounded later judicial comparison - PDF pages: 9](#)

SHA-256: 38bdabb50c444bcc1807533e2d56e0b3b4554507466625ff6dd33dbd637fd8f0

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