

M/s. Gem Granites v. Commissioner of Income Tax, Tamil Nadu

Civil Appeal No. 319 of 2004 / Civil Appeal No. 3962 of 2003 / Civil Appeal Nos. 7574 and 7573 of 2004

[2004] Supp. 6 SCR 332 | 2004-11-23

Whether cut and polished granite remained within the minerals exclusion before the 1991 amendment, and whether the later processed-mineral exception applied retrospectively.

80HHC(2)(b)

Three-judge bench | Ruma Pal, J. | Arijit Pasayat, J. | C.K. Thakker, J.

Assessment years: 1987-88 (lead appeal)

Pre-amendment granite exclusion; four appeal outcomes preserved

The lead AY 1987-88 claim failed because the later processed-mineral exception was not retrospective. This is not a permanent denial for qualifying scheduled goods after the amendment. Three assessee appeals were dismissed, but Revenue's separate appeal 3962/2003 was allowed despite the reporter's final shorthand. Section/circular date defects are flagged. The bounded historical statute check is not current-law or comprehensive later-treatment certification.

01 FACTS OF THE CASE

The lead exporter claimed section 80HHC relief for AY 1987-88 on granite said to have been cut and polished. It argued that processing took the goods outside minerals and relied on the export-incentive purpose, a 1984 CBDT letter about diamonds and gems, and the later 1991 statutory exception. The High Court had rejected the claim following counsel's concession, but the Supreme Court examined the legal issue independently (physical pages 5–8).

The common judgment also dealt with Revenue's Civil Appeal 3962/2003, in which the High Court had accepted the taxpayer's reading of the 1984 letter, and two further assessee appeals, 7574 and 7573/2004. The lead AY is not assigned to all companions without source support.

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

02 DISCUSSION BY THE HON'BLE COURT

The unamended expression minerals and ores was not qualified to exclude goods merely because they had undergone processing while retaining the mineral's character. Cutting and polishing did not remove the granite in question from that exclusion. The 1991 words other than introduced a specific exception for scheduled processed minerals; treating all processed minerals as already outside the exclusion would deprive that change of meaning (physical pages 9–11).

The Court found no language or necessary implication making that benefit retrospective. An export-promotion purpose could not override the clear statutory exclusion. The 1984 CBDT letter addressed the distinctive import/export arrangements for diamonds and gemstones, not granite. The 1994 and 1995 circulars interpreted the scheduled cut-and-polished category after the amendment and did not extend it to the lead earlier year. Customs and excise classifications for duty rates were not imported into this different income-tax provision (physical pages 11–13).

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

03 JUDICIAL DECISION

Civil Appeal 319/2004 was dismissed without costs. Revenue's Civil Appeal 3962/2003 was allowed and the contrary High Court judgment set aside. Leave was granted in the two remaining matters, and Civil Appeals 7574 and 7573/2004 were dismissed for the same reasons. No reassessment remand or fresh quantified demand was ordered; the final reporter shorthand does not capture the separately allowed Revenue appeal (physical pages 13–14).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the common pre-amendment issue

Three assessee appeals dismissed; Revenue Civil Appeal 3962/2003 allowed

Final determination of the identified historical minerals-exclusion issue

Lead AY 1987-88; not a ruling that scheduled cut-and-polished granite can never qualify after the amendment, or that every modern processed-mineral incentive is unavailable.

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

05 AKHB REVIEW POINT

Identify the year, the exact exclusion and the actual scheduled exception before using an industrial-processing label. A later exception can help explain the reach of an earlier general category without itself becoming retrospective. Conversely, a holding about pre-amendment granite cannot be used to deny the later exception on its own terms.

The bounded official-hosted 2011 compilation check, physical page 470 footnote 18, confirms that the processed-minerals exception was inserted by the Finance (No. 2) Act, 1991 from 1 April 1991. Page 469 separately records the section's deduction phase-out from AY 2005-06. These historical checks do not certify all intervening treatment, current law or a 2025-Act counterpart.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, bench and four appeals

Source url: [Open cited source](#)

Pdf pages: 1; 5

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Lead year, statute, submissions and concession

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Mineral scope and non-retrospectivity

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Circulars and other tariff regimes

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Separate appeal dispositions

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Historical phase-out and processed-mineral amendment

Source url: [Open cited source](#)

Pdf pages: 469; 470

Paragraphs: Section 80HHC(1B), (2)(b)(ii); footnote 18

Source role: bounded historical statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ruma Pal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 14 PDF pages; SHA-256

72ea76e6f55b0c6ec03f65834335c02357eb8b1886128c938c2a9da2489c7662. Original bytes preserved.

Complete unnumbered judicial text on physical pages 5–14/SCR 336–345; four appeal units preserved and preceding headnote excluded.

[Open cited source rendition](#)

The judicial ending separately allows Revenue's Civil Appeal 3962/2003, although the final reporter line simply says Appeals dismissed. All four appeal units are retained.; Physical page 9 prints section 80-HHB in one sentence analysing the minerals exclusion; the surrounding reproduced text and reasoning clearly concern section 80HHC(2)(b).; The headnote prints 27 May 1984 for the circular, while the judicial text and reproduced letter identify 22 May 1984. The source also recites 7 November 1984 in one discussion of the later circular, before discussing the 1994 and 1995 circulars. These date recitals are not silently harmonised.; The source's older section 89A history is not relied upon as an independently verified legislative crosswalk.; The Court proceeded against the claim even if the lead counsel's concession were ignored; the decision is not merely a concession-based dismissal.

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: 72ea76e6f55b0c6ec03f65834335c02357eb8b1886128c938c2a9da2489c7662

[official department hosted historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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