

Arun Kumar and Others v. Union of India and Others

Civil Appeal No. 3270 of 2003 with Transferred Cases (Civil) Nos. 101 and 102 of 2006

[2006] Supp. 6 SCR 290 | 2006-09-15

Employer accommodation: validity of rule 3 and concession as a jurisdictional fact under the then statutory text

Income-tax Act, 1961: sections 17(2)(ii), 192(2C) and 295 | Income-tax Rules, 1962: rule 3 as amended in 2001 | Constitution of India: Article 14

Three-judge Bench; judgment delivered by C. K. Thakker, J. | Y. K. Sabharwal, CJI | C. K. Thakker, J. | P. K. Balasubramanyan, J.

Later retrospective deeming amendment

The 2006 Court reasoned from the absence of a statutory deeming provision. CBDT Circular 3/2008 explains that the Finance Act, 2007 subsequently inserted one with retrospective effect from 1 April 2002. The judgment alone therefore does not establish a present exemption for employer accommodation.

[CBDT explanatory circular, section 18](#)

Rule upheld; no blanket employee exemption

The Court upheld the valuation rule and its classifications. It preserved a threshold objection under the statutory text then before it, without finding every appellant's accommodation free of concession or fixing individual tax liability.

Valuation hearing and threshold objection differ

The Court refused to rewrite rule 3 to restore the old fair-rental-value opportunity, while separately preserving the statutory objection that no concession existed. Those conclusions address different stages.

01 FACTS OF THE CASE

TISCO officers and executives challenged the 2001 substitution of rule 3 after their employer notified them of the revised accommodation-perquisite valuation. TISCO had constructed housing around Jamshedpur and fixed annual licence fees by reference to capital cost. The revised rule retained a Government-licence-fee approach for Government employees and prescribed different valuation methods for other employees, including historical salary percentages differentiated by city population. The Jharkhand High Court upheld the rule; connected transferred proceedings arose from the Calcutta High Court's treatment of the same issue. Employees challenged the rule's validity, the classifications and the use of valuation machinery without first establishing a concession under section 17(2)(ii). The Revenue relied on simplification, administrative experience and rationalisation of the valuation system.

Source: [Proceedings, factual background and submissions / PDF pp. 7-13](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court held that the amended rule validly replaced the old fair-rental-value mechanism. It declined to read back into that rule an opportunity deliberately absent from its new valuation scheme; reading down cannot contradict clear legislative language. Population-based valuation was not arbitrary. The distinction between Government employees and employees of companies, corporations and other undertakings also satisfied the intelligible-differentia and rational-nexus tests. But a separate statutory prerequisite remained. Under the text then before the Court, section 17(2)(ii) required a concession in rent, and contained no fiction deeming one merely because rent fell below a percentage of salary. The existence of concession was a jurisdictional fact; quantifying an established concession was an adjudicatory question. Where the assessee disputed concession, the authority had to determine that threshold and record its finding before applying rule 3. The Court distinguished statutory liability from subordinate valuation machinery. It did not enter the wider questions raised through employer-interest or compulsory-occupation examples, and expressed no final opinion on Parliament's power to enact a deeming fiction.

Source: [Reading down and validity / PDF pp. 25-30](#); [Jurisdictional fact, statutory limits and classification / PDF pp. 31-39](#)

03 JUDICIAL DECISION

Rule 3 was held consistent with the parent Act and not arbitrary, discriminatory or contrary to Article 14. It remained machinery applicable only after a concession within section 17(2)(ii), as then considered, was established. The assessee was entitled to contend that no such concession existed. This preserved the statutory threshold without reinstating the former fair-rental-value method inside the rule. The decision did not determine that the appellants had in fact received no concession, and did not invalidate the rule or adjudicate any later deeming amendment.

Source: [Threshold finding required / PDF pp. 34-35](#); [Final holdings / PDF p. 39](#)

04 OUTCOME / IN WHOSE FAVOUR

Civil Appeal 3270 of 2003 was partly allowed to the stated extent. Transferred Cases 101 and 102 of 2006 were disposed of in accordance with that decision, with no order as to costs. Revenue retained the valid valuation framework; employees obtained recognition of their threshold statutory objection. This was qualified relief, not a final finding of tax-free accommodation or an order specifying refunds for the appellants.

Source: [Operative disposal and costs / PDF p. 39](#)

05 AKHB REVIEW POINT

AKHB analysis: separate the source of tax liability from the rule that values an established benefit. Identify precisely which factual prerequisite the relevant statutory version requires, and distinguish a threshold objection from disagreement with valuation. Preserve the mixed result: rule validity and an employee's statutory objection can coexist. For accommodation disputes, begin with the relevant year and amendment history. The later retrospective deeming legislation prevents mechanical use of the 2006 absence-of-fiction reasoning for current payroll decisions. Do not treat the quoted foreign cases or counsel's compulsory-residence examples as automatic exemptions. Check the applicable enactment, valuation rules and subsequent decisions before advising on a present deduction or refund.

Source: [Primary reasoning / PDF pp. 29-39](#); [Subsequent amendment: CBDT Circular, section 18](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

All 39 report pages were read. SCR pp. 290-296 contain the reporter's summary, citations and procedural introduction; the judicial reasons begin on SCR p. 296 (PDF p. 7) and end on SCR p. 328 (PDF p. 39). Quotations of earlier decisions and counsel's wider submissions are distinguished from this Court's reasons and operative order.

[Open cited source rendition](#)

The downloaded 39-page source matches the catalogue SHA-256. Caption, date, three-member Bench and lead/connected dockets were checked.

The complete report was read in contiguous ranges: PDF pp. 1-10, 11-20, 21-30 and 31-39. The final operative order is on PDF p. 39.

No published party/date/docket or source-hash match was found. Existing Arunachalam, Arunagiri Chettiar and Arundhati Balkrishna notes concern different parties and proceedings.

The Court expressly reserved the larger question about Parliament creating a deeming fiction. Counsel's examples of compulsory employer accommodation are not a universal exemption holding.

STATUTORY SCOPE

This judgment examines rule 3 as substituted by the 2001 amendment and section 17(2)(ii) before the Finance Act, 2007 deeming amendment. The 10% and 7.5% figures discussed are historical, not current payroll rates. CBDT Circular 3/2008, section 18, identifies the subsequent retrospective deeming provision. Other later amendments and the present applicable enactment have not been comprehensively audited.

LATER TREATMENT

Source checked 2026-10-12. Limited later legislative check only: CBDT Circular 3/2008 dated 12 March 2008, section 18, explains that the Finance Act, 2007 introduced a rent-concession deeming provision retrospectively from 1 April 2002. This materially qualifies reliance on the judgment's then-text premise. Comprehensive later judicial treatment, challenges to that amendment and present payroll applicability have not been checked.

IDENTIFIED SOURCE LINKS

[CBDT Circular 3/2008 \(12 March 2008\), section 18: subsequent retrospective amendment](#)

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from identified primary sources; independent human review is not represented.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, applicable statutory version and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.