

Commissioner of Income Tax, Kolkata v. M/s. Hooghly Mills Co. Ltd.

Civil Appeal No. 5149 of 2006

[2006] Supp. 9 SCR 265 | 2006-11-22

Whether an assumed gratuity liability forming part of the capital consideration for an acquired undertaking was itself eligible for depreciation.

32 | 43(3)

Two-judge bench | S.B. Sinha, J. | Markandey Katju, J.

Assessment years: See the source-scope notes; no year inferred.

Capital liability is not automatically a depreciable asset

The assumed gratuity liability was capital consideration in the purchaser's hands but was not an eligible section 32 asset. Revenue won; the Court did not actually remand for allocation. Land was also excluded. The printed Rs 2 crore controls over an OCR error; the unnamed assessment year and historical statutory version are not reconstructed. Comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

Under an agreement dated 24 March 1988, the assessee purchased an undertaking with effect from 26 March 1988. The stated Rs 2 crore purchase price was allocated between land (Rs 5 lakh), buildings (Rs 35 lakh), and plant, machinery and other movable assets (Rs 160 lakh). It also took over an accrued and future gratuity liability stated as Rs 3.5 crore. The assessee sought depreciation on that additional liability; CIT(A), the Tribunal and the High Court accepted its claim (physical pages 3–4).

Revenue argued in the Supreme Court that the gratuity payment was revenue expenditure rather than a capital amount. The Court rejected that characterisation but separately tested whether depreciation was legally available.

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

02 DISCUSSION BY THE HON'BLE COURT

For the purchaser, taking over the liability was part of the consideration for acquiring the undertaking and therefore capital in nature. That did not mean it fell within a depreciable asset category. Section 32 identifies eligible buildings, machinery, plant, furniture and specified intangible assets; an obligation to pay gratuity was not one of those assets. The inclusive definition of plant in section 43(3) did not bring such a liability within it (physical pages 4–5).

The agreement already allocated consideration to the relevant tangible assets. Although the Court mentioned that a case with no allocation might require allocation on remand, that was hypothetical; no such remand was needed here. Capital expenditure and depreciable expenditure were not treated as interchangeable (physical pages 5–6).

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

03 JUDICIAL DECISION

Revenue's appeal was allowed without costs. The High Court and tax-authority orders allowing depreciation on the gratuity amount were set aside. The Court stated that depreciation could not be allowed on the gratuity liability or on land; it ordered no remand and made no fresh valuation (physical page 6).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Revenue appeal allowed; impugned depreciation allowance set aside; no costs

Final denial of depreciation on the identified assumed gratuity liability and land

Capital character alone does not establish section 32 eligibility. The hypothetical unallocated-price remand was not the disposition in this case.

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

05 AKHB REVIEW POINT

In an acquisition, first identify the consideration and liability assumed, then identify the statutory depreciable asset and the defensible allocation to it. Do not convert an assumed obligation into plant merely because it contributes to overall acquisition cost. Equally, the decision does not dispense with an actual valuation and asset inquiry in a different transaction.

The Court's observation about gratuity as revenue expenditure in the vendor's hands was contextual; it does not independently waive the deduction conditions governing a vendor's actual payment. The quoted statutory asset list should not be treated as a verified verbatim version for the unnamed assessment year.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and judicial boundary

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Agreement, allocated consideration and liability

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Capital character distinguished from statutory eligibility

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Hypothetical allocation versus actual final relief

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Markandey Katju, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

feb3d7a40a2b224c5d5876f6150ddd983f2d48145b652538d6b0fc4e88a073a1. Original bytes preserved.

Complete unnumbered judicial text on physical pages 3–6/SCR 267–270; preceding headnote excluded; no adjacent judgment.

[Open cited source rendition](#)

Physical page 4's printed amount is Rs 2 crore; the cached extraction misreads it as Rs 7 crore. The image, allocation total and printed source control.; The agreement discussion includes the apparent party-wording slip vendor shall purchase. The surrounding purchase narrative and liability assumption identify the purchaser; the text is not presented as a verbatim accurate contract quotation.; No assessment year is stated. The transaction date does not by itself identify the assessment year.; The section 32 extract contains the named intangible-asset category; the note does not certify that complete quoted version as the governing text at the March 1988 acquisition date.

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: 6](#)

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