

Dr. T.A. Quereshi v. Commissioner of Income Tax, Bhopal

Civil Appeal No. 5635 of 2006

[2006] Supp. 10 SCR 311 | 2006-12-06

Whether seized contraband that the tax authorities had found to be stock-in-trade could be deducted as a trading loss for AY 1986-87, rather than denied as prohibited expenditure under the Explanation to section 37.

37(1), Explanation

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

Assessment years: 1986-87

Historical allowance; serious adverse later treatment

Do not rely on this 2006 allowance without Prakash Chand Lunia (2023). In his separate concurrence, Sundresh J. expressly called Quereshi per incuriam and not binding and rejected its loss/expenditure distinction for the confiscation issue. Shah J. reached the same result in Lunia on narrower business-specific reasoning. Preserve that opinion attribution. The 2006 criminal proceedings were not decided here, and comprehensive later treatment/current law remain unverified.

01 FACTS OF THE CASE

The assessee, a medical practitioner, claimed a loss for contraband seized in 1985. For AY 1986-87, the Assessing Officer initially added Rs.5,50,000 as income from an undisclosed source. The Tribunal reduced the value to Rs.2,00,000 and, after rectification/recall proceedings, ultimately allowed the trading-loss claim on 14 October 1998. Its factual finding was that the seized goods were stock-in-trade of a separate unlawful business. The Madhya Pradesh High Court reversed, relying on the Explanation to section 37 (physical pages 2-4). The criminal proceedings were expressly outside this tax appeal.

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

02 DISCUSSION BY THE HON'BLE COURT

The Court relied on the Tribunal's finding that the assessee carried on the relevant business and that the seized goods formed its stock-in-trade, despite his earlier denial. It distinguished a trading loss in computing business profits from expenditure claimed under section 37 and held that the Explanation's expenditure prohibition did not decide this particular loss claim (physical pages 4–6).

Following Piara Singh and ordinary commercial principles of profit computation, it treated the loss of that stock as a business loss. The opinion criticised substituting moral disapproval for the legal inquiry; it did not approve the underlying unlawful conduct or decide the criminal case (pages 5–6). This is the historical reasoning of the 2006 judgment and must be presented with the later judicial qualification below.

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

03 JUDICIAL DECISION

The assessee's appeal was allowed without costs. The High Court judgment was set aside and the Tribunal's order, including the Rs.2,00,000 business-loss deduction, restored (physical pages 3 and 6). The original disposition remains a historical fact; it is not a present assurance that a comparable confiscation loss is deductible.

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee in the 2006 tax appeal

Appeal allowed; High Court judgment set aside; Tribunal order restored; no costs

Historical final allowance on the Tribunal's stock-in-trade finding

Subject to the prominently identified later Lunia treatment. Sundresh J.'s concurrence expressly calls Quereshi per incuriam and not binding; the two later opinions must not be collapsed into a single undifferentiated overruling rationale. Criminal liability was not decided.

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

05 AKHB REVIEW POINT

Maintain the distinction between expenditure incurred for an unlawful purpose and a claimed loss in computing trading profits, while checking the statutory text and later authority. The old stock-in-trade finding explains the original result; describing an item as stock is not by itself a present answer to deductibility.

The actual Prakash Chand Lunia judgment dated 24 April 2023 was checked within stated bounds. Shah J. rejected the confiscation-loss claim of an otherwise legitimate silver business, distinguishing Piara Singh and noting the bearing of Explanation 1 to section 37. Sundresh J. agreed with the outcome but gave separate, broader reasons: he read the provision as covering the relevant business loss, expressly described Quereshi as per incuriam and not binding in paragraph 25.1, and in paragraph 26(V) stated that Quereshi and Piara Singh did not state correct law in light of Haji Aziz and Explanation 1. Attribute that treatment to the concurrence; do not omit it or replace the distinct opinions with an unexplained global overruling label.

Lunia's concurrence also discussed section 115BBE but expressly recognised its prospective character and non-application to that case. That discussion is not a basis to impose later statutory rules on Quereshi's AY 1986-87. No comprehensive later-treatment audit, present deduction advice or 2025-Act crosswalk is certified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal and judicial boundary

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Cover; jurisdiction; author line

Source role: reported metadata and judicial text

2.

Topic: Assessment year and Tribunal history

Source url: [Open cited source](#)

Pdf pages: 2; 3; 4

Paragraphs: Unnumbered facts; SCR 312F–314A

Source role: judicial text

3.

Topic: Historical loss/expenditure reasoning

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: Unnumbered reasons; SCR 314B–316A

Source role: judicial text

4.

Topic: Original operative relief

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Unnumbered final paragraph; SCR 316B

Source role: judicial text

5.

Topic: Lunia's narrower reasoning and result

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16

Paragraphs: Shah J. 5–8.1

Source role: bounded later judicial comparison

Opinion author: M.R. Shah, J.

6.

Topic: Separate concurrence and statutory discussion

Source url: [Open cited source](#)

Pdf pages: 16; 17; 18; 19; 20; 21; 22

Paragraphs: Sundresh J. 1–19.3, particularly 3,10–17

Source role: bounded later judicial comparison

Opinion author: M.M. Sundresh, J.

7.

Topic: Express adverse treatment and prospective qualification

Source url: [Open cited source](#)

Pdf pages: 47; 48; 49

Paragraphs: Sundresh J. 23.3–27, particularly 25.1–26(V),27

Source role: bounded later judicial comparison

Opinion author: M.M. Sundresh, J.

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Business-profit computation: Historical distinction between claimed trading loss and business expenditure; stock-in-trade finding essential

254(2): Tribunal recall history, not an independent ruling on rectification limits

37(1), explanation 1: Expressly considered in the original judgment and revisited in the checked Lunia opinions

115bbe: Later statutory discussion in Lunia's concurrence only; its prospective nature and non-application to Lunia's year were expressly recognised

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

081607ae155b5486255984cfefdee996a82b7a86fce2218d06d2a34c74eb473e. Original bytes preserved.

Entire unnumbered judicial text on physical pages 2–6 (Supp. 10 SCR 312–316), from Markandey Katju J.'s author line through restoration of the Tribunal order. Physical page 1 and upper part of page 2 are editorial/report material. No adjacent judgment.

Open cited source rendition

The original judgment is dated 6 December 2006. Lunia cites the later reporter citation (2007) 2 SCC 759; that citation year does not change the judgment date.

The unnumbered reported judgment is pinned by physical pages and SCR pages. Later reporter citation year 2007 is not the decision date.; The High Court's quoted comments and tax authorities' factual findings must not be confused with independent findings in a criminal proceeding.; The source actually quotes and discusses the Explanation to section 37. The later criticism concerns its treatment and the earlier larger-bench authority; it should not be paraphrased as if the Explanation were absent from the original text.; Lunia has separate opinions agreeing on result. Its paragraph 25.1 per-incuriam statement and paragraph 26 conclusions are in Sundresh J.'s concurrence.; Lunia's section 115BBE discussion is not an application of that later provision to either historical assessment year.

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. No comprehensive subsequent judicial or statutory audit. The expressly identified later comparison was actually checked, but does not certify all later treatment, present law or any Income-tax Act, 2025 mapping.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 6

SHA-256: 081607ae155b5486255984cfefdee996a82b7a86fce2218d06d2a34c74eb473e

bounded later comparison judgment - PDF pages: 49

SHA-256: 5ab158d0960ac2724f3c270108a2dfd09ce0bf7f05c6e40083d8b2f19fa7de78

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