

S.A. Builders Ltd. v. Commissioner of Income Tax (Appeals), Chandigarh and Another

Civil Appeal No. 5811 of 2006 (reported lead number)

[2006] Supp. 10 S.C.R. 1077 | 2006-12-14

Whether interest on bank borrowings could be disallowed because funds were advanced interest-free to a subsidiary, without examining the commercial purpose of the advance and the subsidiary's use of the money.

36(1)(iii)

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

Assessment years: 1990-91, 1991-92

Limited remand and separate same-day decision

S.A. Builders (interest) required fresh consideration of commercial expediency; it did not finally allow the claimed interest. A different same-day S.A. Builders judgment dismissed the section 32AB claim. The leading factual account also contains an internal year inconsistency for the additional Rs. 37.85 lakh advance.

[paragraphs 12-16](#) / [PDF pages 7, 8, 9](#)

01 FACTS OF THE CASE

For AY 1990-91, the Assessing Officer treated an Rs. 82 lakh advance to subsidiary SAB Credits Ltd. as diversion from the assessee's cash-credit account and disallowed proportionate interest of Rs. 5,66,729. CIT(A) found a clear borrowed-fund nexus only for Rs. 18 lakh and treated the remaining Rs. 64 lakh as drawn from client receipts on which no interest was payable. The Tribunal restored the Assessing Officer's disallowance, treating the entire advance as made through the overdraft account. The Punjab and Haryana High Court affirmed (printed pages 1079-1080).

For AY 1991-92, the assessment account added a further advance of Rs. 37,85,000 and disallowed interest of Rs. 20,08,836. CIT(A) reduced the disallowance to Rs. 10,03,538 in view of the preceding-year finding, then granted rectification relief of Rs. 1,48,464 under section 154. On cross-appeals, the Tribunal again restored the Assessing Officer's position and the High Court affirmed. The Court heard challenges to High Court judgments dated 13 May and 21 May 2004 (printed pages 1079-1080).

The assessee relied on a schedule of client receipts of Rs. 24 lakh, Rs. 20 lakh and Rs. 20 lakh, alongside an Rs. 18 lakh cash-credit withdrawal. It disputed the view that all Rs. 82 lakh represented interest-bearing borrowings and also challenged disallowance relating to the Rs. 18 lakh. These were the assessee's contentions and the disputed findings below, not a Supreme Court determination that all advances came from unborrowed funds (printed pages 1081-1082).

Source: [reported judgment / paragraphs Unnumbered factual narrative and submissions: SCR 1079-1082 / PDF pages 3, 4, 5, 6 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court confined its consideration to deduction of interest on borrowed funds. Section 36(1)(iii) asks whether capital was borrowed for the purposes of business or profession. That expression is wider than earning immediate income or profits. The correct inquiry for an interest-free advance to a subsidiary is whether it was made as a measure of commercial expediency, rather than whether the assessee charged interest or used the borrowed money directly in its own operations (printed pages 1082-1084).

Drawing on the section 37 authorities, the Court explained that expenditure can serve business even when incurred voluntarily, without a legal obligation or immediate direct benefit, and even when a third party also benefits. Commercial expediency is judged from a prudent businessman's perspective. The authorities needed to examine why the advance was made and what the sister concern did with the money. None had examined those matters through that legal test (printed pages 1083-1084).

The Court rejected the restrictive approach in the Bombay High Court's Phaltan Sugar Works decisions, under which use by a subsidiary rather than the borrowing assessee itself prevented deduction. It endorsed Dalmia Cement's approach: once the expenditure's business nexus is established, Revenue cannot substitute its own business judgment or insist on profit maximisation. The judgment does not dispense with proving that nexus (printed pages 1084-1085).

The Court expressly denied an automatic allowance for every sister-concern advance. Personal use by the sister concern's directors would not establish commercial expediency. Where a holding company has a deep interest in its subsidiary and the subsidiary uses the borrowed money for business, an interest deduction would ordinarily be supportable, subject to the actual facts. Madhav Prasad Jatia supplied the contrasting example of a sentimental personal donation. These qualifications matter because the Court did not itself decide the factual commercial-expediency question in S.A. Builders (printed pages 1083-1085).

Source: [reported judgment / paragraphs Unnumbered reasons; SCR 1082-1085 / PDF pages 6, 7, 8, 9 / judgment](#)

03 JUDICIAL DECISION

The appeals were allowed and the adverse orders were set aside only on the interest-deduction issue. The matter was remitted to the Tribunal for a fresh decision under the commercial-expediency test. The Court expressly preserved the orders on all other points; it did not finally allow a specified interest deduction or adopt either side's tracing computation (printed pages 1085-1086).

Source: [reported judgment / paragraphs Final three judicial paragraphs; SCR 1085-1086 / PDF pages 9, 10 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the legal test and entitlement to reconsideration

Appeals allowed; interest issue remitted to Tribunal; orders on other points preserved

Legal test settled; factual entitlement and quantum of interest deduction left for fresh decision

Interest-free related-party advances are not automatically deductible. This remand neither finally establishes commercial expediency nor resolves the disputed source-of-funds tracing.

Source: [reported judgment / paragraphs Limited remand and preservation of other points; SCR 1085-1086 / PDF pages 9, 10 / judgment](#)

05 AKHB REVIEW POINT

Separate two evidential questions: which funds financed the advance, and, if borrowed funds were used, why the advance served business. Retain bank movements, client receipts, the commercial relationship, the advance terms and evidence of the recipient's actual use. A subsidiary relationship alone is insufficient, while absence of immediate interest income does not itself defeat the deduction.

Cite the disposition accurately: this is a limited remand, not an unconditional allowance of all interest or all related-party financing. Do not convert the Rs. 82 lakh or Rs. 37.85 lakh principal amounts into deductions; the contested deduction is interest. The separately reported S.A. Builders decision on the same date rejects a section 32AB claim and must not be merged with this judgment.

The separately verified Hero Cycles decision of 5 November 2015 expressly applies this commercial-expediency approach to an undertaking-backed subsidiary advance. That is one bounded later-use entry, not a complete account of later treatment. Confirm the statutory version and subsequent authorities relevant to any new proceeding; no automatic Income-tax Act, 2025 mapping is made.

Source: [reported judgment / paragraphs Tracing contentions, commercial-purpose test and limited remand; SCR 1081-1086 / PDF pages 5, 6, 7, 8, 9, 10 / judgment; paragraphs 12-16 / PDF pages 7, 8, 9 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

28; 37; 154

PROVISION-SPECIFIC SCOPE

1.
Act: Income-tax Act, 1961
Section: 36(1)(iii)
Role: Deduction provision decided
Basis: Interest on borrowed capital advanced to a sister concern is examined by commercial expediency, printed pages 1082-1085.
- 2.

Act: Income-tax Act, 1961

Section: 37

Role: Interpretive analogy

Basis: Authorities construing the business-purpose expression are applied to section 36(1)(iii); not a separate section 37 claim adjudication, printed page 1083.

3.

Act: Income-tax Act, 1961

Section: 28; 154

Role: Computation and procedural background

Basis: Section 28 is mentioned in explaining the deduction; section 154 appears only in the earlier rectification relief, printed pages 1080 and 1082.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Markandey Katju, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER JUDICIAL TREATMENT AND ITS LIMITS

Status: bounded reported judgments verified

Authority: Hero Cycles (P) Ltd. v. Commissioner of Income Tax (Central), Ludhiana, 5 November 2015

Case id: sc-2015-11-05-hero-cycles-interest

Relationship: expressly relied on and applied

Summary: Hero Cycles paragraphs 12-13 recapitulate S.A. Builders' commercial-expediency and prudent-businessman principles; paragraph 14 applies them to the subsidiary advance required by the assessee's undertaking to financial institutions. Its directors' loans are separately resolved on own-fund findings in paragraph 16. This entry verifies this use only.

Source url: [Open cited source](#)

Paragraphs: 12-16

Pdf pages: 7; 8; 9

ORIGINATING PROCEEDING

The judgment identifies SLP (C) Nos. 21707-21710 of 2004 as the leading S.A. Builders matter and disposes of connected appeals by a common judgment. The reported jurisdiction line prints Civil Appeal No. 5811 of 2006; no unprinted civil-appeal range is inferred.

DISTINCT RELATED JUDGMENTS

1.

Case id: sc-2006-12-14-sa-builders-32ab

Relationship: distinct same party same date judgment

Summary: Separate section 32AB appeal, different case number and High Court judgment; dismissed, whereas this interest issue was remitted.

Source url: [Open cited source](#)

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 10 PDF pages; SHA-256

00938fc92163191859870b055ea51b0f65412b9698774c1c8d8c16eeb5ef8162. Original bytes preserved.

Unnumbered judicial text begins on physical PDF page 2, printed SCR page 1078, at the author/Leave granted line and continues through the limited remand on physical page 10, printed page 1086. Earlier material is editorial headnote, jurisdiction and appearances. No neighbouring decision occurs within this asset.

Open cited source rendition

Unnumbered reported judicial text: pinpoints use physical PDF and printed SCR pages, not paragraph numbers imported from another publisher.

Lead case number only is printed; the common-judgment description is not used to invent a full civil-appeal range.

Only the interest issue was remitted. Other points were expressly preserved.

The competing own-fund/client-receipt contentions were not finally resolved by the Supreme Court.

The additional-advance year on printed page 1080 is internally inconsistent. The text also gives differing dates for the first CIT(A) order; no unnecessary day-level date is adopted.

Separate same-day section 32AB judgment, Civil Appeal No. 5810 of 2006, is not a duplicate.

SCR volume and opening page verified from the rendition. The catalogue neutral citation 2006INSC1009 is not independently verified and is not adopted. Hero Cycles later cites this interest decision as (2007) 288 ITR 1 (SC).

AYs 1990-91 and 1991-92 are expressly identified for the leading S.A. Builders facts. The text does not independently identify assessment years for every connected appeal. On printed page 1080, one later sentence calls the additional Rs. 37,85,000 advance an AY 1990-91 advance despite the opening account placing it in AY 1991-92; the discrepancy is preserved rather than silently corrected.

STATUTORY SCOPE

Historical Income-tax Act, 1961 provisions as discussed in this judgment and applied to its proceedings. No independent statutory-version audit.

No automatic Income-tax Act, 2025 crosswalk, comprehensive later-treatment audit or present-law certification.

LATER TREATMENT

Source checked 2026-10-04. Subsequent judicial treatment and later statutory changes have not been comprehensively verified. Any separately identified authority is a bounded check, not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 10

SHA-256: 00938fc92163191859870b055ea51b0f65412b9698774c1c8d8c16eeb5ef8162

Related note: S.A. Builders Ltd. v. Commissioner of Income Tax (Appeals), Chandigarh and Another

Related note: Hero Cycles (P) Ltd. v. Commissioner of Income Tax (Central), Ludhiana

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