

Commissioner of Income Tax, Pune v. Shirke Construction Equipment Ltd.

Civil Appeal No. 6758 of 2001

[2007] 7 SCR 19 | 2007-05-17

Whether section 80AB governs section 80HHC and requires earlier business losses under section 72 to be set off when determining the relevant business profits.

72 | 80AB | 80HHC

Two judges | Ashok Bhan, J. | Dalveer Bhandari, J.

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

Printed outcome contradiction and historical export deduction

Paragraph 14 visibly says “answered in the negative, i.e., against the Revenue and in favour of the assessee.” Paragraphs 3-13 and 15-16 reject the High Court’s view and allow Revenue’s appeal. No authentic correction order has been checked. No assessment year is supplied in this judgment. Historical section 80HHC was phased out; no present deduction entitlement follows. Comprehensive later treatment, current-law applicability and Income-tax Act, 2025 mapping remain not_verified.

01 FACTS OF THE CASE

Revenue appealed from the Bombay High Court’s judgment of 24 July 2000, which had affirmed the Tribunal and dismissed Revenue’s appeal. The High Court had held that section 80HHC was independent of section 80AB and that unabsorbed business losses from earlier years under section 72 need not be set off against export profits. The Supreme Court framed its review around those two legal conclusions (physical 2-3/SCR 20-21, paragraphs 1-3).

The judgment does not state the assessment year, the amounts of profit or loss, or a detailed description of the assessee’s export operations. Paragraph 5 says the facts are similar to IPCA Laboratory and does not restate them. Similarity is not a basis for assigning IPCA’s figures or assessment year to this assessee. The High Court docket is also printed differently in the appellate recital and paragraph 1, as disclosed in the source cautions.

Source: [reported judgment](#) / [paragraphs](#) Paragraphs 1-5 / [PDF](#) pages 2, 3 / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated IPCA Laboratory as decisive. It explained that the Bombay High Court's impugned decision and Kerala High Court's T.C. Usha decision had already been rejected in IPCA to the extent that they treated section 80HHC as self-contained and insulated from section 80AB. Shirke therefore did not preserve the earlier Bombay view merely because section 80HHC provided an export incentive (physical 3/SCR 21, paragraphs 4-6).

The Court reproduced IPCA's description of the two High Court rulings and its section 80AB reasoning. The non-obstante formulation of section 80AB requires the relevant income to be computed in accordance with the Act before the Chapter VI-A deduction. Section 80HHC does not override that requirement. Profits and legally relevant losses must therefore both enter the computation; the earlier business losses posed in the second question cannot be left out by calling section 80HHC a complete code (physical 3-5/SCR 21-23, paragraphs 7-10).

The reproduced paragraph 9 passage is textually incomplete in this SCR image: after stating section 80AB's overriding effect, it resumes with the fragment referring to section 80AB or another provision of the Act. The separately retained IPCA judicial text, physical 13/SCR 1087 F-G, supplies the missing proposition that section 80HHC does not give itself priority over section 80AB or other provisions. That is an independent quotation check; the original Shirke PDF is unchanged.

Induflex Products and P.R. Prabhakar were also invoked for the positive-profit principle and the need to take both profits and losses from manufactured and trading exports into account. Their discussion supports the statutory approach; it does not supply absent figures or turn Shirke's earlier-year section 72 issue into a finding that this assessee had a particular current-year trading loss (physical 5/SCR 23 C-F, paragraphs 11-13).

Paragraph 14 then contains an internal contradiction: it says the questions are "answered in the negative, i.e., against the Revenue and in favour of the assessee." The immediately following paragraphs 15-16 expressly accept Revenue's appeal and set aside the High Court judgment, consistently with paragraphs 3-13. The adverse wording in paragraph 14 is present in the printed image and is not silently corrected. The outcome below follows the express operative order and the sustained reasoning, while retaining that material source warning.

Source: [reported judgment / paragraphs Paragraphs 4-14 / PDF pages 3, 4, 5 / judicial text; earlier reported judgment quotation check bounded / paragraphs Unnumbered judicial section 80AB passage, SCR 1087 F-H / PDF pages 13 / judicial text](#)

03 JUDICIAL DECISION

The Court applied IPCA's conclusion that section 80AB governs section 80HHC and that the Act's loss-set-off provisions cannot be excluded from the relevant computation. Civil Appeal No. 6758 of 2001 was allowed, the impugned High Court judgment was set aside, and there was no order as to costs (physical 5/SCR 23 G-H, paragraphs 15-16). Paragraph 14's contrary formulation of the answers is an unresolved printed inconsistency, not a separate assessee-favouring disposition.

Source: [reported judgment / paragraphs Paragraphs 14-16; explicit contradiction and operative order / PDF pages 5 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue, on the operative order and reasoning in paragraphs 3-13 and 15-16; contradictory paragraph 14 expressly disclosed

Civil Appeal 6758/2001 allowed; Bombay High Court judgment set aside; no order as to costs

Final substantive construction applying section 80AB and the relevant loss computation to section 80HHC; no figures recomputed in the report

Printed paragraph 14 contradicts the reasoning and operative order. No assessment year, quantified recomputation, additional remand or current deduction entitlement is inferred.

Source: [reported judgment / paragraphs Paragraphs 15-16, SCR 23 G-H / PDF pages 5 / judicial text](#)

05 AKHB REVIEW POINT

The computation must start with the income determined under the Act, including the applicable set-off of earlier business losses, before applying the historical section 80HHC deduction. The export-promotion object cannot justify computing a positive deduction by ignoring losses which the governing provisions require to be counted. Keep the section 72 carry-forward question distinct from the manufactured/trading export netting illustrated by the cited decisions.

Always distinguish this Supreme Court judgment of 17 May 2007 from the Bombay High Court judgment reported at (2000) 246 ITR 429, which it reverses. A later bounded reading of A.M. Moosa (10 September 2007), paragraphs 7-14, confirms the same section 80AB/positive-net-profit approach and again disapproves that 2000 Bombay High Court decision. It does not cite or overrule the present 2007 Supreme Court judgment. Nor does Moosa cure the printed contradiction in Shirke paragraph 14; no authentic correction order was inspected.

The retained 2011 compilation provides selected historical checks of sections 72 and 80AB and of the express section 80HHC(1B) phase-out: 80%, 70%, 50% and 30% for assessment years beginning in 2001, 2002, 2003 and 2004 respectively, followed by no deduction for AY 2005-06 and subsequent assessment years. These selected-version pages and their history footnotes are not a complete amendment/Gazette review. Shirke's unstated assessment year cannot be supplied from them.

Comprehensive later treatment, current-law applicability and Income-tax Act, 2025 mapping remain not_verified. Preserve the source inconsistency, verify the relevant year and the actual loss category, and do not present this historical export-deduction case as a current entitlement.

Source: [reported judgment / paragraphs Paragraphs 2-16 / PDF pages 2, 3, 4, 5 / judicial text: reported judgment bounded comparison / paragraphs Paragraphs 7-14; later comparison, not direct treatment of 2007 Supreme Court Shirke / PDF pages 8, 9, 10, 11 / judicial text: official hosted historical statutory compilation bounded / paragraphs Selected 2011 sections 72,80AB,80HHC\(1\)/\(1A\)/\(1B\); physical 469 sunset / PDF pages 409, 410, 424, 468, 469 / historical statutory compilation](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 6758 of 2001

Outcome: Revenue appeal allowed, impugned High Court judgment set aside; no order as to costs

Costs: No order as to costs

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Actual Chapter VI-A deduction dispute. Earlier-year section 72 losses are the framed question; current-year manufactured/trading export netting appears through supporting precedent and is not treated as an identical factual computation.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ashok Bhan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY CHECKS AND THEIR LIMITS

Status: bounded historical selected version

Source url: [Open cited source](#)

Pages actually read: 409; 410; 424; 468; 469

Finding: Historical selected-version sections 72/80AB and explicit section 80HHC(1B) phase-out checked; no deduction beginning AY 2005-06 under that text.

Limit: No assessment-year reconstruction, complete section 80HHC read, amending Gazette, full amendment chain, present law or 2025 mapping.

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Case: A.M. Moosa v. Commissioner of Income Tax, Trivandrum

Decision date: 2007-09-10

Relationship: later related primary comparison not direct treatment

Result: Paragraphs 7-14 apply the positive-net-profit / section 80AB approach and disapprove the 2000 Bombay High Court Shirke decision. No adverse treatment of the 2007 Supreme Court Shirke judgment is asserted.

Source pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: Paragraphs 7-14; paragraph 10 names the 2000 Bombay decision

Source role: judicial text

Limit: Bounded seven-page text / one-image read; separate Moosa ownership unchanged. No complete citator or correction-order verification.

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Section 29 appears in the reproduced account of the rejected High Court reasoning.

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256

0ee1f38da4ca8a84e6ee849a79a1727126a5722fb239a9ea83f90652f3b5fc98. Original bytes preserved.

Open cited source rendition

full primary text read: True; all primary page images reviewed: False; source integrity verified: True; actual statutory scope verified: True; later treatment comprehensive: not_verified; current law status: not_verified; statutory mapping 2025: not_verified

Printed SCR identity, date and bench verified against material page images. Frozen catalogue INSC identifier is not independently authenticated in this rendition.

Paragraph 14 in the image says “answered in the negative, i.e., against the Revenue and in favour of the assessee,” contradicting paragraphs 3-13 and operative paragraphs 15-16. No official correction order has been authenticated. The note follows the actual allowance and reversal without silently amending the judgment.; Physical 4 paragraph 9 visibly omits the start of the sentence explaining that section 80HHC does not override section 80AB. Retained IPCA physical 13 independently checks the complete proposition; no text is added to the source PDF.; Physical 2 appellate recital prints 458/PN/1998; paragraph 1 prints 458/AN/1998. The discrepancy is preserved.; The Supreme Court deliberately omits detailed facts and assessment year. IPCA figures/year and the facts of cited manufactured/trading export cases are not imported.; Moosa’s adverse reference is to the 2000 Bombay High Court Shirke decision, not the 2007 Supreme Court judgment. It is a related later comparison only.; The 2011 compilation provides selected historical wording and phase-out, not an enacted Gazette, complete amendment history or current law.

No assessment year, computation amounts or detailed business facts are stated. Paragraph 5 says the facts are similar to IPCA and deliberately does not restate them. IPCA’s year or figures are not imported into Shirke.

The report identifies the Bombay High Court judgment dated 24 July 2000. The appellate recital prints ITA No. 458/PN/1998, but paragraph 1 prints ITA No. 458/AN/1998; both suffixes are visible in the physical 2 image. The discrepancy is retained and not resolved by guesswork.

STATUTORY SCOPE

No Income-tax Act, 2025 crosswalk or automatic carryover. Full amendment history, commencement, savings and case-specific present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Bounded later primary comparisons are separately recorded. None is represented as a comprehensive citator check or as direct treatment where none was identified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 5

SHA-256: 0ee1f38da4ca8a84e6ee849a79a1727126a5722fb239a9ea83f90652f3b5fc98

earlier reported judgment quotation check bounded - PDF pages: 17

SHA-256: 82c19daffe734e1ef42e072d3973b010e688c9142ae0d29a0ebf652ab0223967

reported judgment bounded comparison - PDF pages: 11

SHA-256: 62cfe051c30136a95ce2bfd6bec5ac0c2cd6b29b232512b162b20387d189aa8

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AI DISCLOSURE

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