

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

Civil Appeal No. 4144 of 2007

[2007] 9 SCR 831 | 2007-09-10

When an assessee exports both manufactured/processed goods and trading goods, may it ignore the loss in one export stream and claim section 80HHC deduction on the other stream's profit?

80HHC(1) | 80HHC(3)(c)(i)-(ii) | 80AB | 80B(5)

Two judges | Dr. Arijit Pasayat, J. | D.K. Jain, J.

Assessment years: 1992-93

Historical export formula, netting and retrospective proviso limits

AY 1992-93: this decision requires netting the two export streams, not a separate profit in each. It does not independently decide all five referred questions. Its quotation contains later subsection (1B) wording and does not address the fifth proviso inserted in 2005 retrospectively from 1 April 1992. Do not turn the result into a blanket exclusion of incentive-related deductions after a formula loss. The 2011 compilation also records phase-out from AY 2005-06; it is historical selected-version evidence, not current law or original Gazette. Comprehensive later treatment, amendments/savings, present applicability and Income-tax Act 2025 mapping are not verified.

01 FACTS OF THE CASE

For AY 1992-93, A.M. Moosa claimed a deduction under section 80HHC. The Assessing Officer rejected it because the computed business-profit figure was negative. The CIT(A) agreed, and the Cochin Tribunal affirmed that conclusion on 14 September 1995 in ITA 498 (Coch)/1995 (physical 3-4/SCR 833 G-834 B, paragraph 3).

The Tribunal referred five questions to the Kerala High Court. They concerned entertaining an additional ground, characterising payments from export houses under Explanation (baa), an incentive-related increase linked to section 28(iia)-(iic), the meaning of business profits, and ultimate entitlement to section 80HHC. The High Court answered the reference for the Revenue. The Supreme Court appeal challenged that result, but its reasoned analysis focused on the computation of profits and losses from mixed manufacturing and trading exports, rather than separately resolving each referred question (physical 4/SCR 834 B-H, paragraphs 3-5).

The assessee argued that the two export streams should be considered separately and that a profit in one should not be reduced by a loss in the other. It relied on the export-incentive purpose, the wording linking the two limbs of subsection (3)(c), and the absence of wording such as an aggregate requirement used elsewhere. It also submitted that profit must mean only a positive amount throughout section 80HHC. The Revenue supported the decisions below (physical 5 and 7-8/SCR 835 A, 837 H-838 E, paragraphs 5-6). No export amounts or separate stream-wise figures are stated in the judicial account.

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

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted that section 80HHC was intended to encourage exports, but held that liberal construction could not create a benefit inconsistent with clear statutory words. Subsection (3)(a) separately addressed manufactured exports and subsection (3)(b) trading exports; subsection (3)(c) deliberately addressed both. Its opening reference to profits from such exports and the connecting word between limbs (i) and (ii) required both results to enter the calculation (physical 8-9/SCR 838 F-839 D, paragraph 7).

The relevant result was the combined positive balance after taking losses into account. A loss in one stream could not simply be ignored. Equally, the judgment did not require each stream independently to show a profit: paragraphs 7 and 11 say that a positive net result after the adjustments can qualify, whereas a net loss cannot. Reading the short headnote or the phrase about positive profit in both exports without those explanations would overstate the rule (physical 9-10/SCR 839 A-D, 840 D-F).

Sections 80AB and 80B(5) reinforced that conclusion. Section 80AB's overriding formulation required the relevant income to be computed under the Act before the Chapter VI-A deduction, and section 80HHC contained no competing override. The Court therefore rejected the contrary approaches in the Bombay High Court's CIT v. Shirke Construction Equipment Ltd. (2000) 246 ITR 429 and the Kerala High Court's CIT v. T.C. Usha (2003) 132 Taxman 297. This is treatment of those High Court decisions, not a statement about a different Supreme Court Shirke decision (physical 9-10/SCR 839 E-840 D, paragraphs 8-10).

The adjusted-profit mechanism also required account to be taken of the trading-export result. The assessee's semantic argument about profit could not remove losses from the statutory computation. The Court explained that the deductible positive profit must itself be worked out after those losses and expressly agreed with IPCA Laboratory Ltd. and Induflex Products (P) Ltd. (physical 10-11/SCR 840 D-841 C, paragraphs 11-13). The judgment reproduces historical statutory material with later wording, but does not examine the retrospective fifth proviso introduced in 2005; that omission is a material limit on how broadly this result should be used.

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

03 JUDICIAL DECISION

The assessee could not disregard the loss in one export activity while claiming deduction on the other's profit. On the negative-profit case before it, the Court found no merit in the single appeal and dismissed it, leaving the Revenue-favouring High Court result undisturbed. There was no remand or separately quantified deduction (physical 11/SCR 841 C-D, paragraphs 13-14).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue; against the assessee's claimed export deduction on the negative-profit computation

Civil Appeal No. 4144 of 2007 dismissed

Substantive interpretation of historical sections 80HHC and 80AB; deduction denied on the source facts

Combined export-profit/loss rule for the historical assessment; no standalone holding on every referred question, every incentive adjustment or the current availability of an export deduction

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

05 AKHB REVIEW POINT

Keep the eligibility conclusion tied to the computation actually adjudicated. The useful rule is to net both export streams rather than preserve the profitable one and suppress the loss. It is not a requirement that each stream separately be profitable. Ravindranathan Nair (13 November 2007), paragraphs 27-28, directly applied Moosa to the negative-profit appeals and remitted them for fresh disposal; that remand is later treatment, not the disposition in Moosa itself. Jeyar Consultant & Investment (1 April 2015), paragraphs 18-19, expressly confirmed that a positive combined export result can qualify and distinguished an attempt to use domestic income to overcome export-business losses. These are bounded later applications, not a comprehensive citator check.

The statutory-version warning is essential. The quoted Moosa text mentions subsection (1B), although the case concerns AY 1992-93. The government-hosted 2011 compilation records that wording and subsection (1B) as Finance Act 2000 changes effective 1 April 2001. It also reproduces the phase-out and the bar on deduction for AY 2005-06 and subsequent assessment years (physical 468-469). These later features must not be silently treated as the original AY 1992-93 wording.

More importantly, physical 472/printed 1.431 reproduces the fifth proviso to section 80HHC(3), requiring specified formula losses to be set off against proportionate amounts of identified export incentives; footnote 27 records insertion by the Taxation Laws (Amendment) Act 2005 with retrospective effect from 1 April 1992. Moosa does not reproduce or discuss that proviso. Its result therefore cannot be used as a blanket denial of every incentive-related deduction whenever the pre-incentive formula gives a loss. The exact income, relevant proviso and governing version need separate analysis. The compilation is selected historical evidence, not the original amending Gazette or current law.

Comprehensive later treatment, all amendment/savings consequences, current applicability and Income-tax Act 2025 mapping remain not_verified.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 4144 of 2007

Outcome: Dismissed; High Court result remains; no remand

Costs: No order as to costs

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, AY and five referred questions

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Heading; paragraphs 1-4; SCR 833 F-834 G

2.

Topic: Quoted statutory text and later subsection (1B) wording

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: Paragraph 5; SCR 835-837

3.

Topic: Mixed-export netting, section 80AB and adverse High Court treatment

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Paragraphs 7-11; SCR 838 F-840 F

4.

Topic: Meaning of profit, precedents and dismissal without costs

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: Paragraphs 12-14; SCR 840 G-841 D

5.

Topic: Direct later application and remands

Source url: [Open cited source](#)

Pdf pages: 19; 20; 21

Paragraphs: Paragraphs 25-34; SCR 1115 D-1117 B

6.

Topic: Later clarification and distinction of domestic income

Source url: [Open cited source](#)

Pdf pages: 19; 20; 21; 23

Paragraphs: Paragraphs 18-20,23-24; SCR 997 E-999 B,1001 B-C

7.

Topic: Selected historical Chapter VI-A text

Source url: [Open cited source](#)

Pdf pages: 424

Paragraphs: Printed 1.383; sections 80AB,80B(5)

8.

Topic: Later subsection (1B) wording and phase-out

Source url: [Open cited source](#)

Pdf pages: 468; 469

Paragraphs: Printed 1.427-1.428; footnotes 5,8-10

9.

Topic: Historical formula and retrospective fifth proviso

Source url: [Open cited source](#)

Pdf pages: 470; 471; 472

Paragraphs: Printed 1.429-1.431; footnotes 21,26-27

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Actual historical export-deduction computation. Sections 28(iia)-(iic), Explanation (baa) and additional-ground jurisdiction appear in the reproduced reference questions, but no separate Supreme Court rule is reasoned on each. Section 80HHD appears only in counsel's comparison. Quoted subsections (1A), (3A) and (4) do not create separate holdings.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dr. Arijit Pasayat, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 11 PDF pages; SHA-256

62cfe051c30136a95ce2bfdb6bec5ac0c2cd6b29b232512b162b20387d189aa8. Original bytes preserved.

[Open cited source rendition](#)

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

Date, bench and SCR reference checked on source images. Catalogue INSC identifier not independently authenticated in this rendition.

The judicial body starts on physical 3; preceding material is editorial. One opinion and one appeal only.; The five reference questions are reproduced, but the Supreme Court's reasoned holding is the combined export-profit/loss rule; do not invent independent rules on additional grounds or Explanation (baa).; The compressed wording about positive profit in both exports must be read with paragraphs 7 and 11: net positive profit after losses can qualify.; The statutory quotation includes later subsection (1B) wording although AY 1992-93 is involved; the retrospective fifth proviso is not discussed.; The printed phrase subsection (1) of section 80HHC(3) in paragraph 7 is awkward; the surrounding reasoning clearly compares subsection (1) with the computation in subsection (3). Original bytes are unchanged.; Shirke and T.C. Usha adverse treatment here concerns the named High Court authorities; IPCA and Induflex are adopted.; No original amending Gazette, complete statutory history, comprehensive later treatment or present applicability is certified.

Physical 3/SCR 833 identifies the single appeal from Kerala High Court ITR 112 of 1998, judgment dated 2 August 2004. No SLP number appears in this frozen rendition.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk. Complete amendments, commencement, savings and case-specific present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. not_verified

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 11](#)

SHA-256: 62cfe051c30136a95ce2bfdb6bec5ac0c2cd6b29b232512b162b20387d189aa8

[later reported judgment bounded - PDF pages: 21](#)

SHA-256: 0bb5f24c0b1e561263d684774755d8efd0674d3aa3ea749643efd25c4d3a8d04

[later reported judgment bounded - PDF pages: 23](#)

SHA-256: 0f8ecb56fe81c57b69620ca670328c0d88f766af4b810fbd928bff5fb4b1429d

[official government hosted historical compilation bounded - PDF pages: 1251](#)

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