

M/s. Hero Exports, G.T. Road, Ludhiana v. Commissioner of Income Tax (Central), Ludhiana

Civil Appeal No. 5315 of 2007 / Civil Appeal No. 5317 of 2007 / Civil Appeal No. 5318 of 2007 / Civil Appeal No. 5319 of 2007

[2007] 12 SCR 337 | 2007-11-20

For a trading-goods exporter with other incentive and similar income and one common expense pool, can 10% of that other income be attributed to earning it and removed from the indirect costs charged against export turnover?

80HHC(3)(b) | 80HHC(3) Explanation (d) and (e) | 80HHC Explanation (baa)

Two-judge bench | S.H. Kapadia, J. | B. Sudershan Reddy, J.

Assessment years: 1994-95, 1995-96, 1996-97, 1997-98

Common-cost attribution; illustration and source text require care

The accepted 10% guidance relates to allocating a common indirect-expense pool in the historical trading-export formula. It is not an extra deduction or automatic gross-versus-net rule. Figures are assumed; the source has stray subsection labels and corrupted wording in paragraph 16, although restoration and allowance are clear. Comprehensive later treatment and current law remain unverified.

01 FACTS OF THE CASE

The assessee exported trading goods and also earned export incentives and other income. It sought to attribute part of a common indirect-expense pool to those other receipts, reducing the indirect costs deducted from trading export turnover and increasing the computed export profit. The Assessing Officer and CIT(A) disallowed the adjustment; the Tribunal granted it; the Punjab and Haryana High Court reversed. Four assessee appeals covered AYs 1994-95 through 1997-98 (paragraphs 2-3 and 16-17; jurisdiction list).

The Court's assumed example used exports of Rs.6,50,000, other income of Rs.1,60,000, direct costs of Rs.5,00,000 and indirect costs of Rs.50,000. Assigning 10% of the other income, Rs.16,000, to earning those receipts left Rs.34,000 of indirect export costs and illustrative export profit of Rs.1,16,000, rather than Revenue's Rs.1,00,000. These are expressly explanatory figures, not findings of the assessee's actual amounts (paragraphs 4-6).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court gave effect to the main provision's requirement that deductible direct and indirect costs be attributable to the trading exports. The expense definitions did not erase that attribution requirement. Revenue accepted that other income existed and required expenditure, yet sought to charge the whole common indirect pool against export turnover. The Court rejected that approach (paragraph 11).

The allocation language in Explanation (e) was not confined to manufactured or mixed exporters. It also applied to trading exporters, although in many cases export turnover and total turnover might coincide. The Court used the possibility of only part of export proceeds being brought back to explain why the ratio still mattered in some trading-export cases (paragraph 12).

The operative adjustment was to the common indirect expense pool: the portion attributable to earning the other income was not also charged to the exports. For the circumstances before it, 10% of the other income was a fair guidance estimate. The Court expressly said it was not importing Explanation (baa) into section 80HHC(3)(b); it derived the guidance from section 80HHC's scheme read with the 1991 Finance Act memorandum. It balanced allocation with attribution so that the incentive was reduced appropriately rather than eliminated (paragraphs 13-15).

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

03 JUDICIAL DECISION

The High Court judgments dated 22 December 2006 were set aside and the specified Tribunal orders dated 30 September 2003, 24 October 2003, 13 February 2004 and 26 August 2004 restored. The assessee's civil appeals were allowed without costs. The judgment restored the Tribunal's result rather than remanding for a new final rupee determination (paragraphs 16-17).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

High Court judgments set aside; specified Tribunal orders restored; four civil appeals allowed without costs

Final restoration of the indirect-cost attribution adjustment for the appeals before the Court

Common expenses for trading exports and other income; 10% is the accepted guidance estimate in this setting, not a free-standing deduction, automatic factual expense finding, or universal netting rule under Explanation (baa).

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

05 AKHB REVIEW POINT

Apply the adjustment at the right place: reduce the indirect-cost pool by the amount attributed to earning the other income before reducing export turnover by export-attributable costs. Do not subtract 10% from turnover a second time or treat the illustrative Rs.16,000 as a separately awarded deduction. The judgment's broad prose must be read with its explicit computation and common-pool facts.

A bounded later doctrinal comparison with ACG paragraphs 8-15 keeps a different issue separate: Explanation (baa) uses the relevant net receipts actually included in computed business profits after legally allowable expenses. ACG is not recorded here as a decision applying or overruling Hero. Hero's 10% cost-attribution guidance must not displace ACG's actual statutory computation where the latter issue arises. Comprehensive later treatment and present-law/2025-Act mapping remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, four appeals and actual years

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Cover; jurisdiction; 1-3

Source role: reported metadata and judicial text

2.

Topic: Assumed example and competing workings

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: 4-6

Source role: judicial text

3.

Topic: Competing submissions and historical statutory text

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9; 10; 11; 12

Paragraphs: 7-10

Source role: judicial text

4.

Topic: Attribution and allocation analysis; stray subsection reference

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14; 15

Paragraphs: 11-15

Source role: judicial text

5.

Topic: Restoration and allowance; visibly corrupt source wording

Source url: [Open cited source](#)

Pdf pages: 15

Paragraphs: 16-17

Source role: judicial text

6.

Topic: Separate net-receipt issue under Explanation (baa)

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12; 13; 14

Paragraphs: ACG 8-15

Source role: bounded later doctrinal comparison not case treatment

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

80hhc(3)(b): Trading-goods export turnover reduced by direct and indirect costs attributable to that export

Explanation (d)/(e): Definition and allocation of direct and indirect costs

Explanation (baa): Discussed as context; paragraph 14 expressly declines to read it into section 80HHC(3)(b)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.H. Kapadia, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 15 PDF pages; SHA-256

863110a469adaaf24aa67106ae09a1c8edf68a670fe67c092c566f01eac7090d. Original bytes preserved.

Judicial paragraphs 1-17 on physical PDF pages 4-15 (SCR 340-351), fully read, including the expressly assumed figures and competing computations. Pages 1-3 are editorial/report/jurisdiction material. No adjacent judgment.

[Open cited source rendition](#)

Physical page 4 expressly labels the figures assumed. Neither the example nor its repeat in later reasoning is the assessee's proved actual accounts.; The source prints subsection (3)(c) in paragraph 3 and (3)(a) in paragraph 11, while the framed issue, main analysis and conclusion consistently address the trading-goods provision (3)(b). These stray references were visually checked and are not silently adopted.; Paragraph 14 describes a reduction of export turnover by 10% in shorthand; paragraphs 4-6 and 13 show that the accepted operation is reduction of the common indirect-cost charge, not a second turnover subtraction.; The rendered paragraph 16 itself contains corrupt wording, including are re aride and TATA. Read with its named Tribunal orders and clear paragraph 17, the operative result is restoration of the Tribunal orders and allowance of the assessee appeals; no fabricated verbatim correction is supplied.; ACG is a separately checked doctrinal comparison, not an asserted subsequent ruling on Hero.

STATUTORY SCOPE

Current statutory equivalence and 2025 Act applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial or statutory audit. Only the expressly identified, actually read bounded comparisons are recorded; no current-law or Income-tax Act, 2025 certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 15](#)

SHA-256: 863110a469adaaf24aa67106ae09a1c8edf68a670fe67c092c566f01eac7090d

[bounded comparison judgment - PDF pages: 15](#)

SHA-256: 66479c5e7031141139b12b4b7dfb78190ad8305a0051e37ba2457e4131fe791c

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