

G.K. Choksi & Company v. Commissioner of Income Tax, Gujarat

Civil Appeal No. 7486 of 2001

[2007] 12 SCR 561 | 2007-11-27

Whether a chartered accountants' firm qualified for the historical section 32(1)(iv) 40% initial depreciation on a building constructed for its low-paid employees, despite that clause's reference to employment in business only.

32(1)(iv) | 32(1)(ii) | 2(13) | 2(36) | 9(1)

Three-judge bench | Ashok Bhan, J. | Harjit Singh Bedi, J. | V.S. Sirpurkar, J.

Assessment years: 1984-85

Historical special housing allowance only; ordinary depreciation is distinct

The CA firm lost its AY 1984-85 claim under the then section 32(1)(iv), which referred to employees in business. The ruling does not deny professionals all depreciation or make business exclude profession in every statutory context. The 40% rate and related conditions are historical. The report's chapter-location recital and clause labels should not be copied as statutory verification. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

For AY 1984-85, the Ahmedabad chartered accountants' firm built employee residential accommodation costing Rs. 1,08,757 and claimed initial depreciation of Rs. 43,505 at 40% under section 32(1)(iv). The ITO rejected that special deduction because the firm carried on a profession. CIT(A) allowed it, relying on Barendra Prasad Ray's interpretation of business connection under section 9. The Tribunal restored the disallowance; the Gujarat High Court answered the referred question against the firm (paragraphs 1-7).

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

02 DISCUSSION BY THE HON'BLE COURT

Section 32(1)'s opening reference to business or profession supplied general conditions, while each following clause imposed its own specific requirements. Clause (ii) applied to business and profession; the historical clause (iv) referred only to persons employed in business. The Court treated that narrower language as deliberate and declined to insert profession into it (paragraphs 8 and 12–13).

Barendra Prasad Ray interpreted business connection in a different statutory setting, section 9(1). Its broad meaning there did not control this special depreciation clause. The judgment's comparison preserves the importance of context; it does not establish that every occurrence of business anywhere in tax law excludes professional activity (paragraphs 14–17).

The Court accepted the familiar submission that an available ambiguity can be resolved in the assessee's favour but found no two possible interpretations here. A purposive reading could not first invent a gap and then fill it by adding a class omitted from the clause. The firm therefore failed the specific condition of the claimed historical allowance (paragraph 18).

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

03 JUDICIAL DECISION

The assessee's appeal was dismissed, leaving the parties to bear their own costs. Denial of the claimed historical section 32(1)(iv) initial depreciation stood. The Court did not deny all ordinary depreciation to professionals or prescribe a current 40% allowance (paragraph 19, read with paragraphs 12–18).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee's appeal dismissed; each party to bear its own costs

Final against the CA firm's AY 1984-85 special initial-depreciation claim

Confined to the wording of historical section 32(1)(iv) and the claimed employee-building allowance. Ordinary depreciation under clause (ii), other professional deductions and section 9 business-connection interpretation are not generally excluded.

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

05 AKHB REVIEW POINT

Read the enabling provision and the specific subclause together. Meeting the general business-or-profession condition did not remove this special clause's narrower employment-in-business condition. Identify exactly which allowance is claimed before citing the decision against a professional practice.

The 40% figure, employee-income threshold and building conditions are historical. This case does not supply a present depreciation rate or justify denying every professional depreciation claim. The distinguished section 9 precedent remains a context comparison, not an independent holding on non-resident income in this appeal.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, year, building cost and claim

Source url: [Open cited source](#)

Pdf pages: 1; 4; 5

Paragraphs: Cover; jurisdiction; 1–5

Source role: reported metadata and judicial text

2.

Topic: Reference and historical statutory terms

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: 6–8

Source role: judicial text

3.

Topic: Party submissions separately identified

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: 9–11

Source role: party submissions

4.

Topic: General conditions and special-clause limits

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: 12–13

Source role: judicial text

5.

Topic: Contextual precedent distinction and interpretive reasoning

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: 14–18

Source role: judicial text

6.

Topic: Final dismissal

Source url: [Open cited source](#)

Pdf pages: 12

Paragraphs: 19

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

32(1)(iv): Historical special initial depreciation for specified employee-housing/welfare buildings; operative provision.

32(1)(ii): Contrasted ordinary depreciation extending to business or profession.

2(13) / 2(36): Business and profession definitions raised in submissions.

9(1): Context of the distinguished Barendra Prasad Ray business-connection decision, not the present chargeability issue.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ashok Bhan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 12 PDF pages; SHA-256

9a2ecbba840923465c5da210f03191445e3d36218e8ed5175520060ca0906559. Original bytes preserved.

Judicial paragraphs 1–19 on physical pages 5–12 (SCR 565–572). Pages 1–4 contain reporter material and jurisdiction/appearance lines. No adjacent judgment.

[Open cited source rendition](#)

The cover gives Harjit Singh Bedi in full, whereas ingestion metadata abbreviates H.S. Bedi; the displayed bench follows the cover.; The claimed Rs. 43,505 and cost Rs. 1,08,757 are reproduced as stated; no new rounded computation is substituted.; The source uses both clause and sub-section labels for parts of section 32(1). This note consistently identifies the operative provision as section 32(1)(iv).; Paragraph 15 locates section 9(1) in Chapter II. That is the source's printed contextual recital, not a chapter-location proposition relied on in this note; the issue is the different statutory wording and setting.; Barendra Prasad Ray's quoted reasoning is source-embedded material and was not independently reviewed for this note.; The Court expressly recognises clause (ii)'s application to business and profession; the special-clause outcome must not be generalised into a denial of all professional depreciation.

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 actually checked comparisons are separately identified and bounded; no current-law or Income-tax Act, 2025 certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 12](#)

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