

M/s. Munjal Sales Corporation v. Commissioner of Income Tax, Ludhiana and Anr.

Civil Appeal No. 1378 of 2008 / Civil Appeal No. 1379 of 2008 / Civil Appeal No. 1380 of 2008 / Civil Appeal No. 1381 of 2008 / Civil Appeal No. 1382 of 2008

[2008] 2 SCR 1169 | 2008-02-19

Whether compliance with section 40(b)(iv) alone entitled a firm to deduct partner interest, and whether the separate section 36(1)(iii) requirement was satisfied on the stated sister-concern advance facts.

36(1)(iii) | 40(b)(iv) | 30-38

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

Assessment years: 1993-94, 1994-95, 1995-96, 1996-97, 1997-98

Two deduction tests; fact-specific relief and historical rate text

Section 40(b)(iv) limits a deduction established under sections 30-38; it does not independently grant partner-interest relief. The firm won on its specific funding and prior findings. The source's 18/12% notation and overlapping AY/funding recitals require caution; use the actual year's statutory text. The checked 2020 clause uses 12% simple interest, but current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The firm made interest-free advances to sister concerns in August/September 1991. Earlier Tribunal orders for AYs 1992-93 and 1993-94 found that the advances came from its own funds; Revenue accepted those orders. The old advances decreased each year and were finally repaid in AY 1997-98. There were no further advances in AY 1994-95. An additional Rs.5 lakh was advanced in AY 1995-96 (paragraphs 4-6 and 16-17).

The disputed later disallowances followed the Finance Act 1992 change in the treatment of firm-to-partner interest. The authorities questioned the funding of the interest-free advances. The High Court upheld the interest disallowance, relying on Abhishek Industries. The firm contended that section 40(b)(iv) was a standalone statutory allowance and that satisfaction of its conditions removed any need to establish entitlement under section 36(1)(iii) (paragraphs 2, 7-10 and 13).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the standalone-allowance argument. Section 40's non-obstante opening means that an amount otherwise deductible under sections 30–38 can still be disallowed or limited. The firm first had to establish the deduction under section 36(1)(iii), then show that section 40(b)(iv) did not disentitle it. Satisfying the partner-interest rate ceiling does not itself establish the business-purpose deduction. The Court accepted Revenue's construction of that statutory relationship (paragraphs 14–15 and 18).

The firm nevertheless succeeded on the facts. The original advances were the diminishing continuation of the 1991 advances already found to have come from the firm's funds and to have been made for business purposes. With that finding and the interest remaining within the statutory limit, the Court allowed deduction under section 36(1)(iii) read with section 40(b)(iv) (paragraph 16).

For the fresh Rs.5 lakh advance in AY 1995-96, paragraph 17 identifies an opening balance of Rs.1.91 crore on 1 April 1994 and finds the relevant year's profits sufficient to cover the advance. It therefore rejects the Tribunal's statement that nothing showed own-fund financing. This is an application to the stated accounts and accepted findings, not an adjudication that every interest-free sister-concern advance satisfies the business-purpose test (paragraphs 17–18).

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

03 JUDICIAL DECISION

All five assessee appeals were allowed, the impugned High Court judgments set aside and no costs ordered. Although Revenue's interpretation of the relationship between sections 36(1)(iii) and 40(b)(iv) was accepted, the assessee obtained relief on the particular facts. There was no remand (paragraphs 18–19).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on operative relief; Revenue on the disputed statutory construction

All five assessee appeals allowed; High Court judgments set aside; no costs

Final interest-deduction relief on the stated facts, with the two-stage statutory test clarified

Does not make section 40(b)(iv) a standalone deduction or automatically validate all sister-concern advances. The accepted prior findings, diminishing old balances, sufficient own-fund/profit position and applicable statutory limit matter.

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

05 AKHB REVIEW POINT

Keep the two inquiries separate: identify the provision that grants the deduction, then apply the limiting conditions in section 40. For a firm, a deed or a permitted interest rate does not replace the business-purpose inquiry. On funds, preserve the opening balances, movement of the original advances, fresh advances and earlier accepted findings. The Court itself says that the assessee succeeded on the peculiar facts.

The source repeatedly uses the composite expression 18/12%, while its reproduced post-1992 clause states eighteen per cent simple interest. That notation must not be presented as a single rate or an option available for every year. A separately checked official section 40 text labelled 2020 states a twelve-per-cent simple-interest ceiling in clause (b)(iv), alongside deed and period conditions. This is a bounded later-version comparison, not a current-rate certificate or complete amendment-history audit.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, full five-appeal group and assessment years

Source url: [Open cited source](#)

Pdf pages: 1; 5; 6; 13

Paragraphs: Cover; jurisdiction list; 3 and 16

Source role: reported metadata and judicial text

2.

Topic: Advance chronology and competing positions

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: 4–11

Source role: judicial text

3.

Topic: Historical quoted provisions and the two-stage test

Source url: [Open cited source](#)

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

Paragraphs: 12–15

Source role: judicial text

4.

Topic: Application to old advances and fresh Rs.5 lakh

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: 16–17

Source role: judicial text

5.

Topic: Construction accepted for Revenue; assessee relief and disposal**Source url:** [Open cited source](#)**Pdf pages:** 14**Paragraphs:** 18–19**Source role:** judicial text

6.

Topic: Bounded later statutory ceiling comparison**Source url:** [Open cited source](#)**Locator:** Published version labelled 2020; section 40 opening and clauses (b)(ii)–(iv)**Source role:** official statutory html**ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS****36(1)(iii):** Threshold entitlement to deduct business-borrowing interest; own-funds and business-purpose findings applied on these facts**40(b)(iv):** A limiting/disallowance provision for firm-to-partner interest, not an independent deduction merely because the rate condition is satisfied**30–38:** Deductions remain subject to section 40 in the Chapter IV-D scheme**JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS**

S.H. Kapadia, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY COMPARISONS AND TEMPORAL LIMITS

1.

Source urls: <https://www.incometaxindia.gov.in/w/section-40-57>**Checked provision:** Published 2020 section 40(b)(ii)–(iv)**Finding:** The checked later text requires deed-authorised interest within the prescribed period conditions and limits the clause (b)(iv) allowance to twelve per cent simple interest per annum.**Limit:** Comparison with the source's historical 18/12% terminology only. No precise commencement-history or present-law certification.**SOURCE & VERIFICATION**[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 14 PDF pages; SHA-256

62ed49d3aac91938051b4ef4be55b195fdb705008b5f12b1ce707db5f552a6c4. Original bytes preserved.

Judicial paragraphs 1–19 occupy physical pages 6–14 (SCR 1174–1182). Pages 1–5 and the counsel matter above the judgment on page 6 are reporter/editorial material. No adjacent judgment.

[Open cited source rendition](#)

Paragraphs 3 and 16 expressly identify the five appeal years. AY 1992-93 is earlier-history evidence. The report also discusses an accepted favourable Tribunal finding for AY 1993-94; it gives no appeal-by-appeal allocation that resolves that overlap.

The report includes AY 1993-94 in the appeal group while also recording an accepted favourable earlier Tribunal finding for that year. Both statements are preserved; no unreported appeal-to-year reconciliation is invented.; Paragraph 8 reports a Tribunal statement that no advances were made in AYs 1995-96 and 1996-97; paragraphs 6 and 17 expressly identify the fresh Rs.5 lakh advance in AY 1995-96. The detailed Supreme Court application in paragraph 17 controls this note.; Paragraph 6 describes Rs.1.91 crore as profits; paragraph 17 identifies that amount as the opening balance on 1 April 1994 and separately finds profits sufficient. The note follows paragraph 17 without creating a reconstructed account.; The repeated 18/12% expression is in the scanned judicial source, not merely OCR. Paragraph 12 reproduces the post-1992 clause with an eighteen-per-cent simple-interest ceiling. No universal or current 18% allowance is inferred.; Abhishek Industries is identified as the High Court's reliance. No independent full review of that judgment or later judicial treatment is claimed.

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. Any actually checked statutory comparison is separately identified and bounded; no current-law or 2025-Act certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 14](#)

SHA-256: 62ed49d3aac91938051b4ef4be55b195fdb705008b5f12b1ce707db5f552a6c4

[official statutory html](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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