

Malayala Manorama Co. Ltd. v. Commissioner of Income Tax, Trivandrum

Civil Appeal No. 5420 of 2002 / Civil Appeal No. 5421 of 2002 / Civil Appeal No. 5422 of 2002 / Civil Appeal No. 5423 of 2002

[2008] 6 SCR 211 | 2008-04-10

For a company consistently debiting depreciation at Income-tax Rules rates, could the Assessing Officer recompute section 115J book profit by substituting Schedule XIV Companies Act rates?

115J(1) | 115J(1A) | 115J, Explanation

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

Assessment years: 1988-89, 1989-90

Later doubted and referred: current effectiveness not verified

This decision concerns AYs 1988-89 and 1989-90 under historical section 115J. Dynamic Orthopedics (16 February 2010) expressly doubted it and sought larger-bench reconsideration; that referral is not itself an overruling. The ultimate reference outcome and comprehensive subsequent treatment have not been verified. Current-law applicability and Income-tax Act, 2025 mapping are not verified. Do not assume automatic application to later MAT provisions.

01 FACTS OF THE CASE

The four company appeals arose from the Kerala High Court's common judgment of 13 November 2001 in ITRs 245, 259, 289 and 293 of 1999. They concerned assessment years 1988-89 and 1989-90. The central dispute was whether the Assessing Officer could replace depreciation consistently charged in the company's books at Income-tax Rules rates with Schedule XIV Companies Act rates when computing section 115J book profit (physical 4/SCR 214, paragraphs 1-2; physical 17-18/SCR 227-228, paragraph 23).

The company submitted that its accounts had been audited under section 227 of the Companies Act, certified as presenting a true and fair view, approved by shareholders at the annual general meeting and filed with the Registrar without objection. It said Revenue had never disputed compliance of the accounts with Parts II and III of Schedule VI. It relied on the Schedule VI disclosure requirements, a Company Law Department circular treating Schedule XIV rates as minima, and the three-judge Apollo Tyres ruling limiting the Assessing Officer's interference with certified accounts (physical 9-12/SCR 219-222, paragraphs 8-12, including the image-only body of physical 11).

Revenue's account of the proceedings stated that, for AY 1988-89, the company returned a loss of Rs. 1,12,293 and claimed a refund of Rs. 8,62,730; the assessing officer instead assessed total income of Rs. 47,26,270. The Commissioner (Appeals) directed allowance of the company's depreciation claim for book-profit purposes, and the Tribunal upheld that direction. Revenue challenged this in reference proceedings; the company also raised questions concerning section 154 and the computation made through a rectification order. The printed questions give inconsistent order dates, 9 October 2002 and 9 October 1992, which cannot safely be reconciled from this source (physical 16-17/SCR 226-227, paragraphs 19-20).

Source: [reported judgment / paragraphs Paragraphs 1-2 and 8-12; physical 11 body read from image / PDF pages 4, 10, 11, 12; reported judgment / paragraphs Paragraphs 19-23; printed questions, returned figures and assessment-year mapping / PDF pages 16, 17, 18](#)

02 DISCUSSION BY THE HON'BLE COURT

The judgment sets out the historical minimum-tax background, reproduces section 115J and quotes Circular No. 495. The scheme compared income computed under the ordinary provisions with 30 per cent of adjusted book profit and deemed the latter amount to be taxable income if the former was lower. Thirty per cent was the deemed-income measure, not a statement that this was the tax rate. The Court explained that the measure targeted companies reporting book profits while showing no taxable income (physical 4-9/SCR 214-219, paragraphs 3-7).

The company's submissions drew a distinction between the Schedule VI accounts requirements and the Schedule XIV depreciation rates. It argued that the accounts disclosure provisions did not mandate the latter rates and invoked the circular and Schedule XIV note concerning different depreciation methods/rates. The judgment then examined Apollo Tyres directly as reproduced within this source. The Court treated certification under the Companies Act, shareholder approval and filing with the Registrar as the authenticity framework for the company accounts. Applying Apollo Tyres, it stated that the assessing officer could examine whether the books had the required certification and then make the increases and reductions permitted by the section 115J Explanation; the officer could not otherwise go behind the net profit in the profit-and-loss account (physical 10-13/SCR 220-223, paragraphs 9-13).

Counsel for the company also cited High Court decisions applying Apollo Tyres, including Sona Woolen Mills and Kinetic Motors, and asserted that Revenue had not challenged several such decisions. These are reported submissions and comparisons, not independently verified findings about the subsequent histories of all those cases (physical 14-16/SCR 224-226, paragraphs 14-18).

Revenue argued that incorporation of section 205 of the Companies Act into the section 115J reduction mechanism brought in section 350 and Schedule XIV, making Companies Act depreciation rates mandatory. The judgment's account also distinguished AY 1989-90, to which subsection (1A) applied, from AY 1988-89, and recited opposing High Court approaches. Revenue argued that administrative views could not override the statute and invoked J.K. Industries. The Supreme Court said that case did not assist Revenue and concluded that the three-judge Apollo Tyres interpretation already resolved the controversy (physical 17-20/SCR 227-230, paragraphs 21-28).

The operative holding thus rejects the proposed substitution on this company's section 115J facts. It is not a finding that every entry in every company account is beyond inquiry. Nor does the Court separately explain the section 154 questions: its concluding reason is the controlling Apollo Tyres interpretation, followed by allowance of all appeals. Several printed statutory labels and dates are irregular, as identified in the source cautions; they should not be converted into independent rules.

Source: [reported judgment / paragraphs Paragraphs 3-7; quoted statutory and circular background / PDF pages 4, 5, 6, 7, 8, 9; reported judgment / paragraphs Paragraphs 9-13; company submissions and Court's](#)

02 DISCUSSION BY THE HON'BLE COURT

[Apollo Tyres analysis / PDF pages 10, 11, 12, 13; reported judgment / paragraphs Paragraphs 14-19; parties' submissions and quoted High Court material / PDF pages 14, 15, 16; reported judgment / paragraphs Paragraphs 21-28; Revenue incorporation argument, J.K. Industries and controlling precedent / PDF pages 17, 18, 19, 20](#)

03 JUDICIAL DECISION

All four company appeals were allowed. The impugned Kerala High Court order was set aside. Each party was directed to bear its own costs. The judgment does not order a remand, supply a revised numerical assessment or separately reason through the section 154 questions (physical 20/SCR 230 A-C, paragraphs 28-29).

Source: [reported judgment / paragraphs Paragraphs 28-29; SCR 230 A-C / PDF pages 20](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee company on the historical section 115J depreciation/book-profit dispute

All four appeals allowed; impugned High Court order set aside; parties to bear their own costs

Substantive section 115J computation and limits-of-scrutiny holding applying Apollo Tyres

No separate section 154 ratio, revised assessment computation, general immunity from statutory adjustments, or final statement of present-law effectiveness. Later larger-bench reference treatment must remain visible.

Source: [reported judgment / paragraphs Paragraph 29; all appeals allowed and own costs / PDF pages 20](#)

05 AKHB REVIEW POINT

The useful historical distinction is between checking the statutory authenticity of the accounts and substituting a different depreciation basis in the book-profit calculation outside the permitted adjustments. Preserve the assessment years and the certified-accounts setting when citing the decision; do not turn the result into a general rule that accounts or depreciation can never be scrutinized. The source's composite statutory quotation and inconsistent rectification dates require particular care.

There is direct adverse later treatment. In *Dynamic Orthopedics*, 16 February 2010, a two-judge bench expressly considered *Malayala Manorama* wrongly decided and sought larger-bench reconsideration. Its reasons stressed that section 115J applied without a public/private company distinction, incorporated Parts II and III of Schedule VI, and should not be defeated by the differing depreciation regimes. The operative direction was to place the appeal before the Chief Justice for appropriate directions, not to overrule *Malayala* or finally dispose of *Dynamic's* depreciation merits. The later reference's ultimate outcome has not been verified (*Dynamic physical* 7-8/SCR 885-886).

The retained 2011 compilation is only a bounded historical cross-check: it records section 115J's date window, subsection (1A) and its editorial insertion note, the earlier Schedule VI wording, and changed accounting/depreciation language in later sections 115JA and 115JB. It is neither current law nor the original amending Gazette. Complete subsequent judicial treatment, current applicability, later amendments and Income-tax Act, 2025 mapping remain not verified; no automatic carryover to current MAT is warranted by this review.

Source: [reported judgment / paragraphs Paragraphs 13 and 28-29; historical holding and limits / PDF pages 13, 20; later reported referral order direct adverse treatment / paragraphs Unnumbered paragraphs beginning In our view, with respect and For the afore-stated reasons; SCR 885 C-886 G / PDF pages 7, 8; official government hosted historical compilation bounded / paragraphs Historical section 115J; editorial footnotes 13-15, 20, 25; section 115JA\(2\) provisos / PDF pages 608, 609, 610; official government hosted historical compilation bounded / paragraphs Historical section 115JB\(2\), first and second provisos / PDF pages 614, 615](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 5420 of 2002

Outcome: Allowed under the common judgment; impugned High Court order set aside; parties bear their own costs

2.

Case number: Civil Appeal No. 5421 of 2002

Outcome: Allowed under the common judgment; impugned High Court order set aside; parties bear their own costs

3.

Case number: Civil Appeal No. 5422 of 2002

Outcome: Allowed under the common judgment; impugned High Court order set aside; parties bear their own costs

4.

Case number: Civil Appeal No. 5423 of 2002

Outcome: Allowed under the common judgment; impugned High Court order set aside; parties bear their own costs

Costs: Parties directed to bear their own costs

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

The adjudicated issue is the Assessing Officer's power to substitute Schedule XIV depreciation rates in historical section 115J book-profit computation. Neither ordinary section 32 depreciation nor present section 115JB liability is independently adjudicated. The section 154 questions are recorded but receive no separate reasoned answer.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dalveer Bhandari, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, historical section 115J

SPECIFIED STATUTORY CHECKS AND THEIR LIMITS

Status: historical selected version only

Source: [Open cited source](#)

Pages: 608; 609; 610; 614; 615

Result: Selected 2011 text checks section 115J date window and subsection (1A) history; shows later sections 115JA/115JB contain their own accounting/depreciation wording. No original amending Act, complete amendment chain or present-law certification.

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Case: M/s. Dynamic Orthopedics Pvt. Ltd. v. Commissioner of Income Tax, Cochin, Kerala

Decision date: 2010-02-16

Relationship: Direct adverse consideration and larger-bench referral

Result: Two-judge bench says Malayala needs reconsideration, expresses strong disagreement, and directs Registry placement before the Chief Justice. Reference only; no operative overruling or final merits result.

Source pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Unnumbered reasoning and final referral direction; SCR 885-886

Later reference disposition: not verified

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Income-tax Act, 1961, section 154 (question reproduced; no separately reasoned determination); Section 80VVA (historical background; source later prints 80VV); Section 115JA (later legislative background only); Companies Act, 1956, sections 205, 210, 211, 227 and 350; Parts II and III of Schedule VI and Schedule XIV; Income-tax Rules, 1962, depreciation rates; Circular No. 495 dated 22 September 1987 and Company Law Department Circular No. 2/1989 dated 7 March 1989, only as reproduced/discussed in the judgment

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 20 PDF pages; SHA-256
71d5e1479a587ad0530dbc954054ca606d4438ab9641a179395a6d9abbb049dc. 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 and bench verified on the first-page image; frozen catalogue INSC identifier is not independently printed or authenticated in this rendition.

The frozen catalogue lists only Civil Appeal 5420/2002. The heading and jurisdiction recital cover Appeals 5420-5423 of 2002. The physical 3 appellate recital mentions only ITR 245 and 289/1999, while judicial paragraph 1 on physical 4 lists ITRs 245, 259, 289 and 293/1999. No unsupported one-to-one mapping of the four Supreme Court appeals to those references is made.; Physical 11/SCR 221 has a missing body-text layer, not a missing source page. Its image was read in full; paragraph 10 continuation and paragraph 11 were not omitted from review.; Paragraph 19 on physical 16/SCR 226 prints rectification dates 09.10.2002 and 09.10.1992 in successive questions and mislabels section 115J as being of the Companies Act. The contradictory date is not silently resolved. Section 154 is a reported question, not a separately reasoned Supreme Court holding here.; Paragraph 4 on physical 4-5 says book-profit tax was abandoned from AY 1990-91, whereas the quoted section 115J(1) on physical 5 expressly covers assessment years beginning before 1 April 1991. The retained 2011 compilation on physical 608 also prints that statutory limit. The narrative date is not used as a definitive termination rule.; Paragraphs 20-21 on physical 17 print section 80VV; paragraph 3 on physical 4 discusses section 80VVA. Paragraph 24 on physical 18 labels the quoted loss/depreciation reduction Explanation (ha)(iv) and describes it as relevant to both years while saying introduced 1 April 1989. These irregularities are preserved as source cautions, not normalized into statutory holdings.; The primary source quotes a later-form section 115J including clauses not necessarily applicable throughout both years. The historical compilation separately records subsection (1A) insertion from 1 April 1989, the earlier Schedule VI wording, and later clause amendments. Neither the quoted composite text nor the compilation substitutes for the exact assessment-year Gazette text.; Apollo Tyres, the cited High Court cases, J.K. Industries and the two circulars are reviewed only as quoted or discussed in this primary judgment. No independent full-source review or reacquisition of the missing Apollo original is claimed.; Dynamic Orthopedics (16 February 2010) directly doubts Malayala and seeks larger-bench reconsideration. This adverse referral is not itself an overruling. The ultimate larger-bench/reference disposal has not been verified, and present pending status is not asserted.; The original source PDFs remain unchanged. The 2011 compilation is historical selected-version evidence, not current law or an original Gazette. Comprehensive later treatment, current law and Income-tax Act, 2025 mapping remain not_verified.

Paragraphs 8 and 23 identify both years. Paragraph 23 assigns ITRs 245/259 to AY 1988-89 and ITRs 289/293 to AY 1989-90. AY 1984-85 and AY 1997-98 appear only in legislative background; paragraph 4 contains the separately flagged AY 1990-91 cessation anomaly.

Four appeals from Kerala High Court common judgment dated 13 November 2001 in ITRs 245, 259, 289 and 293 of 1999; judicial paragraph 1 supplies the full four-reference list. Individual appeal-to-reference mapping is not supplied.

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. Direct adverse Dynamic Orthopedics referral checked; comprehensive treatment and ultimate reference disposition not_verified. Bounded discovery did not establish a final larger-bench outcome; absence of search results is not proof of absence.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 20](#)

SHA-256: 71d5e1479a587ad0530dbc954054ca606d4438ab9641a179395a6d9abbb049dc

[later reported referral order direct adverse treatment - PDF pages: 8](#)

SHA-256: bf975338e1742ab532980bcd14546ca15edab8f6ba9fc7fbbfd140a66722d4cc

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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