

Commissioner of Income Tax, Thiruvananthapuram v. Joseph Valakuzhy

Civil Appeal No. 7750 of 2002

[2008] 7 SCR 752 | 2008-05-06

Was the deferred balance of qualifying film-production cost under historical Rule 9A subject to the return-filing conditions for carrying forward business losses under sections 80 and 139(3)?

80 | 139(3) | 263 (procedural history) | 143(3) (fresh assessment)

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

Assessment years: 1992-93

Historical 180-day rule, unquantified allowance and later distinction

The judgment concerns assessment year 1992-93 and the historical 180-day Rule 9A. Later compiled text records 90 days effective 1 April 1999. Paragraph 14 prints Rule 9A(2) for a balance otherwise addressed by sub-rule(3); paragraphs 1/4 print section 260. Rs. 39,43,830 was the original claim, not a final quantified award. The undisputed subsidy statement is not a general present-law exemption. Honey Enterprises later distinguished this decision on a Rule 9B computation issue, without overruling it. Comprehensive later treatment, current law and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The film producer claimed Rs. 39,43,830 as amortization expenses to be carried forward in his return for assessment year 1992-93. The Assessing Officer initially allowed the claim. The Commissioner used section 263 to set aside that assessment and direct withdrawal of the carry-forward benefit, because the return had not complied with section 139(3) and section 80 was considered applicable. The assessee's appeal against that revisional order was dismissed by the Tribunal. A fresh section 143(3) assessment then implemented the direction (physical 3-4/SCR 754 F-755 B, paragraphs 2-3).

On appeal from the fresh assessment, CIT(Appeals) found that the claimed computation was incorrect and required separate accounts for the two films, Ex Kannikodi and Santhwanam, so that the Rule 9A allowance could be determined separately. Any business loss on the older film remained subject to sections 80 and 139(3). The second film's production-cost allowance deferred to the next year was treated differently: it fell to be deducted in that later year rather than carried forward as the current year's business loss. The Tribunal dismissed the Revenue's appeal with clarifications, and the High Court upheld the distinction because Santhwanam had not met the historical 180-day exhibition threshold (physical 4-5/SCR 755 B-756 E, paragraphs 3-5).

The Revenue's Supreme Court appeal raised the legal character of that Rule 9A deferral. Rs. 39,43,830 is the amount originally claimed, not a quantified deduction finally awarded by the Supreme Court. The separate-account recomputation history is material to the scope of the result.

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

02 DISCUSSION BY THE HON'BLE COURT

The Court set out section 80 as applicable to the assessment year. It barred carry-forward and set-off of the specified categories of loss unless the loss was determined on a return filed in accordance with section 139(3). That provision operated in the Chapter dealing with aggregation and loss set-off. The Court contrasted it with the special Rule 9A machinery for determining the amount and timing of a film producer's cost deduction (physical 5-6/SCR 756 F-757 D, paragraphs 6-9).

The reproduced Rule 9A definition excluded positive-print expenditure and post-certification advertising from production cost, and contained the stated subsidy adjustment. Under sub-rule(2), sale of all exhibition rights could permit deduction of the entire cost; the other specified exhibition/partial-rights situations attracted full deduction where the film was commercially released at least 180 days before year-end. Under sub-rule(3), when that historical threshold was not met, deduction in the first year was limited by the specified exhibition/sale realizations and the remaining cost moved to the next following previous year. Thus the statutory computation and the nature of the deferred amount, rather than its accounting label, determined whether section 80 applied (physical 6-8/SCR 757 D-759 E, paragraph 9).

Applying that rule, the Court held that Santhwanam's production cost not absorbed by its limited exhibition receipts was not a business loss. The film had not been exhibited for the required 180-day period and receipts had not covered production cost. The qualifying balance therefore became a deduction in the next following previous year, outside the section 80/139(3) restriction invoked against an ordinary carried-forward business loss (physical 8-10/SCR 759 H-761 A, paragraphs 12-14).

Several limits in the printed text matter. Paragraph 11 records as undisputed that a film is a producer's capital asset and a State subsidy is a capital receipt; the Court did not determine the character of a particular subsidy scheme in this appeal. Paragraph 13's phrase about the rule as it then stood must not turn the historical 180-day text into a present-law statement. Paragraph 14 refers once to Rule 9A(2) when discussing the deferred balance, although the reproduced deferral provision and the surrounding analysis identify sub-rule(3). The note retains that cross-reference anomaly without changing the source or converting the case into a general right to carry every film-related expense forward.

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

03 JUDICIAL DECISION

The Court dismissed the Revenue's appeal and left the parties to bear their own costs. It upheld the producer's entitlement to carry the qualifying balance of Santhwanam's production cost to the next following previous year and deduct it there under the historical rule, rather than treat that amount as a business loss caught by sections 80 and 139(3). It did not reinstate the original Rs. 39,43,830 computation as an adjudicated figure (physical 9-10/SCR 760 E-761 B, paragraphs 14-15).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the legal character of the qualifying Rule 9A deferred production cost

Civil Appeal 7750 of 2002 dismissed; parties to bear their own costs

Substantive 1961 Act/rules holding distinguishing a later-year cost deduction from carry-forward of a business loss

Historical Rule 9A production-cost deferral for the second film; genuine business losses on the older film remain subject to the applicable loss provisions, and exact recomputation is not quantified

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

05 AKHB REVIEW POINT

Separate a deduction that the rules postpone from a loss arising after the current year's allowable deductions are computed. The former has not yet entered the current-year profit-and-loss calculation in the relevant statutory sense. This case protects that distinction; it does not dispense with timely-loss-return requirements for actual business losses or validate the taxpayer's original aggregate computation.

Honey Enterprises (Delhi High Court, 8 December 2015) expressly considered Valakuzhy but distinguished it. The later case concerned a distributor's Rule 9B calculation and whether print costs could be deducted first to enlarge the acquisition cost carried forward. The court accepted the distinction between deferred cost and business loss, yet held that Valakuzhy did not resolve that different computation issue. Its Rule 9B ruling went against the assessee; both the assessee's and Revenue's appeals were ultimately dismissed, each side bearing its own costs. This is a direct later distinction, not an overruling of the Supreme Court (physical 12,18-28,30,39; paragraphs 9,13-19,22-23,38).

The selected Tripura High Court-hosted rules compilation prints ninety days in Rule 9A(2) and (3); editorial footnotes 61 and 63 attribute the change from 180 to 90 to the Income-tax (Ninth Amendment) Rules 1998 with effect from 1 April 1999 (physical 144-145, printed 1.121-1.122). The complete Rule 9A text at physical 143-146 was visually read. This compiled version, containing later amendment references, is not an authenticated 1998 Gazette or current-law certification. Readers must use the version applicable to the relevant year, and should not generalize the undisputed subsidy remark without examining the governing legislation and scheme. Comprehensive later treatment, all statutory changes, current applicability and the Income-tax Act 2025 crosswalk 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. 7750 of 2002

Outcome: Revenue appeal dismissed; no quantified final allowance stated

Costs: Parties to bear their own costs

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, original claim, revision and separate-film computation

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4; 5

Paragraphs: Heading; paragraphs 1-5; SCR 754-756

2.

Topic: Historical section 80 contrasted with Rule 9A

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Paragraphs 6-9; SCR 756 F-757 D

3.

Topic: Complete quoted production-cost definition and relevant sub-rules

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Paragraph 9; SCR 757 D-759 E

4.

Topic: Limited subsidy premise, deferral holding, cross-reference anomaly and costs

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Paragraphs 11-15; SCR 759 F-761 B

5.

Topic: Direct later Rule 9B distinction and outcome

Source url: [Open cited source](#)

Pdf pages: 12; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 30; 39

Paragraphs: Paragraphs 9,13-19,22-23,38

6.

Topic: Later compiled rule and 1999 day-count change, not current-law certificate

Source url: [Open cited source](#)

Pdf pages: 143; 144; 145; 146

Paragraphs: Printed 1.120-1.123; Rule 9A; footnotes 61 and 63

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

An actual 1961 Act assessment and film-production deduction dispute. Rule 9A cost deferral is distinguished from Chapter VI loss carry-forward. The source prints section 260 in describing the High Court appeal; that printed label is preserved as a caution, not adopted as a separately reasoned jurisdictional holding.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ashok Bhan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, sections 80 and 139(3), read with Income-tax Rules, 1962, Rule 9A in the historical 180-day version

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Classification: Direct later distinction by Delhi High Court; not overruling

Source url: [Open cited source](#)

Pdf pages: 12; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 30; 39

Holding limit: Rule 9B computation for a film distributor; agreement with the deferred-cost/loss distinction did not resolve the different gross-receipts and print-cost question

Bounded check: verified only within explicit read bounds

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Income-tax Rules, 1962, Rule 9A(1)-(3) (historical 180-day version); Sections 72, 73, 74, 74A (listed in the quoted historical section 80)

SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256

fc7db748760a3bbc98a545aed81e2f9fee27cc71aa417e6cb977f00954463ab8. 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

Decision date, bench and SCR citation checked on the first-page image. Catalogue INSC identifier is not independently authenticated in this rendition.

The original claimed Rs. 39,43,830 is not the final amount awarded; the appellate history requires separate film accounts and recalculation.; Paragraphs 1 and 4 print section 260 for the High Court appeal; the note does not silently rewrite this as a judicially reasoned section 260A holding. Paragraph 2 also uses the awkward phrase on appeal before describing section 263 revision.; Paragraph 14 prints Rule 9A(2) for the deferred balance; the quoted deferral rule and paragraphs 5/13 identify Rule 9A(3). Both text and image confirm the source wording.; The historical rule uses 180 days. A later compiled rule uses 90 days with amendment footnotes effective 1 April 1999; the judgment's as-it-now-stands phrase is not a current-law statement.; Paragraph 11's film-asset/subsidy statement is an undisputed premise, not a decision on a particular subsidy's present tax treatment.; Honey Enterprises directly distinguishes the decision on a separate Rule 9B computation question; it does not overrule it. The Honey source spells the name Valakuzhi and cites 302 ITR 140 in paragraph 9; the frozen Supreme Court identity is independently verified.; Comprehensive later treatment, current applicability, complete statutory history and 2025 mapping are unverified; the court-hosted annotated rules are not the amending Gazette.

Assessment year 1992-93 is express. The balance production cost was deductible in the next following previous year under the then Rule 9A, rather than part of the current-year business-loss computation.

One Revenue appeal from Kerala High Court ITA 105/1999, judgment 27 November 2001. No additional Supreme Court proceeding appears in the source.

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. Bounded web discovery found Honey Enterprises, whose complete 39-page primary text and nine material images were read. Its direct distinction is preserved. No comprehensive citator, appeal-history or current-law verification is claimed.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 10](#)

SHA-256: fc7db748760a3bbc98a545aed81e2f9fee27cc71aa417e6cb977f00954463ab8

[official later judgment direct distinction - PDF pages: 39](#)

SHA-256: 6db3ca27e28aba822c82c845239f473efc37ac98edcbda4d105b0c628a3942ce

[court hosted annotated rules compilation bounded - PDF pages: 250](#)

SHA-256: bb7caeb8dda9ebf6021ee3731e0db06dee0cbda407824bd26803247f15723c38

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