

Commissioner of Income Tax-I, Ahmedabad v. Gold Coin Health Food Pvt. Ltd.

Civil Appeal No. 5065 of 2008 / Civil Appeal No. 5066 of 2008

[2008] 12 SCR 179 | 2008-08-18

Whether the Finance Act 2002 amendment to Explanation 4 clarified an existing loss-case penalty rule or created a new charge only from 1 April 2003, and the effect on the two appeals before the larger Bench.

271(1)(c) | Explanation 4(a) to section 271(1) | 2(24) | 72 (loss context)

3-judge bench | Dr. Arijit Pasayat, J. | P. Sathasivam, J. | Aftab Alam, J.

Assessment years: See the source-scope notes; no year inferred.

Loss-case penalty legally possible; no penalty demand in these two appeals

The larger Bench rejects Virtual Soft's contrary loss-case interpretation, but it does not automatically penalise every reduction of a loss. Paragraph 18 records that Revenue would not demand penalty in either identified appeal despite its legal success. Both appeals were disposed of without a quantified penalty. Keep this historical provision-specific ruling separate from later penalty regimes and unrelated Virtual Soft litigation; comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

A two-judge Bench referred the matter on 7 April 2008 because it doubted Virtual Soft Systems (2007), which had rejected retrospective application of the loss-case penalty amendment. The three-judge Bench considered whether penalty under section 271(1)(c) was legally available where the returned income was a loss, in light of the Finance Act 2002 amendment effective 1 April 2003. Two civil appeals were before it; the judgment supplies no taxpayer-specific assessment-year, concealment-amount or penalty-computation narrative (paragraphs 1–5 and reported case list).

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

02 DISCUSSION BY THE HON'BLE COURT

The term income can include negative income or loss. Drawing on Harprasad, the Court held that the earlier Explanation 4(a) had to be read in that light. Prithipal Singh, which involved AY 1970-71 before Explanation 4 existed, did not determine the later statutory period. The Finance Act 2002 language made explicit what was already implicit (paragraphs 6–8).

The Court examined the Wanchoo Committee recommendation and Circular 204 as reproduced. These addressed tax sought to be evaded where concealed income was set off against other or brought-forward losses. The rule covered both an addition converting a returned loss into positive income and an addition merely reducing the loss while the assessed figure remained negative. Such a case was not automatically beyond penalty during the earlier Explanation 4 period from 1 April 1976 to 1 April 2003 (paragraphs 8–12).

An announced commencement date or a clarificatory label is not conclusive by itself. The prior scheme, substance of the change, mischief and legislative intention must be examined. Applying the interpretive authorities discussed, the Court held the relevant amendment clarificatory rather than substantive and rejected Virtual Soft's contrary view on this issue (paragraphs 13–17). This determines legal availability, not proof of concealment in every loss case.

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

03 JUDICIAL DECISION

The larger Bench rejected Virtual Soft's contrary loss-case penalty interpretation and disposed of both appeals. Crucially, paragraph 18 records the Solicitor General's statement that Revenue would not demand penalty from the assessee in the appeal arising from SLP(C) 4379/2007 even if it succeeded before the Bench, and states the same position for the appeal arising from SLP(C) 14785/2007. The operative text does not impose a quantified penalty or remand either case for a fresh computation (paragraphs 17–19).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the legal interpretation; the two assesseees retain the recorded no-penalty-demand protection

Reference issue determined and both appeals disposed of, with the paragraph 18 departmental no-demand statements recorded

Final larger-bench ruling on the referred statutory interpretation; no taxpayer-specific penalty imposed in this judgment

Loss or absence of payable tax is not by itself immunity, but concealment/inaccurate particulars and the governing statutory requirements still require determination. No broad current penalty formula, rate or automatic liability is supplied.

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

05 AKHB REVIEW POINT

Separate whether the statute permits a penalty from whether the taxpayer's conduct satisfies its ingredients and from what relief the operative order grants. Gold Coin answers the first question; it does not make every assessed loss reduction penal. The two express no-demand statements are essential to reporting the result accurately.

The case illustrates a provision-specific clarificatory amendment analysis, not a rule that all fiscal amendments work backwards. Preserve the relevant filing/year provisions, the applicable Explanation and the evidence for the alleged default. Virtual Soft (2007) on loss penalties is distinct from the later same-name accounting litigation; this note does not declare every proposition from either judgment overruled. Comprehensive later treatment and present penalty provisions have not been audited.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and reference

Source url: [Open cited source](#)

Pdf pages: 1; 5; 6

Paragraphs: Cover; connected appeal; 1–2

Source role: reported metadata and judicial text

2.

Topic: Competing interpretation and amendment materials

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: 2–6

Source role: judicial text

3.

Topic: Loss meaning and earlier Explanation 4

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: 7–12

Source role: judicial text

4.

Topic: Clarificatory nature and contrary view rejected

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14; 15; 16; 17

Paragraphs: 13–17

Source role: judicial text

5.

Topic: Legal answer, both no-demand statements and disposal

Source url: [Open cited source](#)

Pdf pages: 17

Paragraphs: 17–19

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dr. Arijit Pasayat, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 17 PDF pages; SHA-256

aa922072d8097308eef6c2b6ebd6cff2427d188541c4eed49800396bbe70f1b3. Original bytes preserved.

Complete judicial paragraphs 1–19 on physical pages 6–17/SCR 184–195. Earlier headnote/report material excluded; no adjacent judgment.

[Open cited source rendition](#)

The editorial table says Virtual Soft is held inapplicable; judicial paragraph 17 expressly rejects its contrary interpretation. The narrower judicial proposition controls.; The headnote gives Circular 204 as 24 January 1976 in one place, while the judicial discussion gives 24 July 1976. No original circular has been independently authenticated for this note; its discussion is labelled as reproduced in the judgment.; Physical page 2 visually reads SCR 180, despite the cached OCR reading 186.; Paragraph 2 contains an awkward double-negative/omission in its account of the referring Bench's view. The final paragraphs 17–19, not that recital alone, establish the ruling.; The two SLP identifiers in paragraph 18 are preserved without inventing an appeal-to-SLP mapping not printed in the common order. No assessment year is borrowed from the quoted Prithipal Singh litigation.; The underlying statutory and wealth-tax quotations are context for interpretation, not separate new holdings in those fields.

STATUTORY SCOPE

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

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial and statutory treatment has not been verified. Only the expressly identified bounded comparisons have been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 17](#)

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