

Commissioner of Income Tax, Dehradun & Anr. v. Enron Oil & Gas India Ltd.

Civil Appeal No. 5433 of 2008

[2008] 12 SCR 1168 | 2008-09-02

Whether the foreign-currency translation loss arising under the particular PSC and its mandatory accounting procedure was deductible under section 42(1), or merely an illusory book entry excluded as loan/financing loss.

42(1) | 293A

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

Assessment years: 1999-00

Specific PSC accounting and non-loan cash calls control the result

The deduction rests on section 42 read with this PSC's mandatory currency translation and its treatment of cash calls as contributions, not loans. It is not a blanket forex-loss or AS 11 ruling. Depletion allowance was expressly absent from the PSC. The headnote misprints AY 1990-2000 and the Act year; judicial text identifies AY 1999-00 and the 1961 Act. Other Tribunal years are not separate appeal outcomes here. Current law, comprehensive later treatment and 2025-Act mapping remain unverified.

01 FACTS OF THE CASE

The Cayman Islands oil-exploration company was operator of a consortium with RIL and ONGC under a production-sharing contract with the Government of India for the Panna, Mukta and Mid & South Tapti fields. EOGIL and RIL each held 30% participating interests; ONGC held 40%. The judgment records separate assessment of each participant's income share under the section 293A notification (paragraphs 2-3 and 26).

Each co-venturer contributed US-dollar cash calls to the operator's US bank account, from which joint expenditure was paid. Operations generated dollar and rupee expenditures, with the PSC requiring translation and cost recovery through petroleum. For the lead AY 1999-00, the company debited Rs. 38,63,38,980 as exchange loss. The assessing officer treated it as merely notional. CIT(A) allowed it, the Tribunal agreed and the High Court affirmed. The Revenue's Supreme Court appeal challenged the translation-loss deduction (paragraphs 4-9 and 26).

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

02 DISCUSSION BY THE HON'BLE COURT

Section 42 had to be read with the qualifying PSC. It provided special allowances only when specified by that agreement and in the agreed manner. The Court expressly noted that this PSC did not provide depletion expenditure, so section 42(1)(c) could not supply that allowance. Article 15.2.1 instead provided for the other identified exploration/drilling allowances. The Court's description of the PSC as a complete code concerned this statutory-contractual accounting regime, not unrestricted freedom to deduct any expenditure (paragraphs 10 and 16–24).

The production-sharing mechanism made currency translation integral to determining costs, cost petroleum, profit petroleum and the Government's take. Contributions and expenses were converted at different rates. Article 20.2 and Appendix C clause 1.6.1 prescribed the preceding month's average daily mean SBI buying/selling exchange rate for the recorded flows. Clause 1.6.2 required realised and unrealised currency gains and losses for petroleum operations to enter the accounts. The Court therefore rejected the characterisation of these mandatory translation losses as illusory book entries (paragraphs 11–15 and 23–31).

This PSC supplied special accounting treatment for both capital and revenue expenditure, with separate booking of currency variation, so the Court did not apply Accounting Standard 11 as the governing regime. It distinguished the PSC's first-tier accounting from the company-account note concerning loan-financed fixed assets; paragraph 32 also discusses year-end translation of monetary balances under Note 1(d). Those distinct references must not be collapsed into a single generic exchange-rate rule (paragraphs 22 and 32).

The Revenue relied on Appendix C clause 3.2 concerning unrecoverable/non-allowable loan or financing costs. The Court rejected that application because a cash call was a co-venturer's contribution, not a loan. It expressly corrected the lower judgment's loan illustration. The result depended on that distinction and the actual PSC obligations (paragraphs 26 and 32).

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

03 JUDICIAL DECISION

The Revenue's appeal was dismissed with no order as to costs. The deduction for the identified foreign-currency translation losses under this PSC was sustained; the Court found no merit in treating them as illusory or in applying the loan/financing exclusion to cash-call contributions (paragraphs 27 and 31–33).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeal dismissed; no order as to costs; deduction sustained

Final merits decision on the identified PSC-based currency-translation loss

Depends on section 42 read with this PSC, its specified allowances, Appendix C accounting and non-loan cash calls. It does not allow every forex loss, override AS 11 generally, grant an unprovided depletion allowance, or decide a distinct MAT or section 44BB computation.

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

05 AKHB REVIEW POINT

Read the signed PSC, incorporated appendices and relevant statutory version together. Trace the cash call, conversion requirements, recognised gains/losses, recoverable cost categories and participant-level accounts. A contribution cannot be relabelled as a loan merely to apply a financing exclusion, but the taxpayer equally cannot claim an allowance the PSC does not provide.

The judgment's capital/revenue and AS 11 observations are anchored to this special accounting regime. Preserve the distinction between the preceding-month-average PSC translation and the separate year-end account-note discussion. Check the governing contract, tax year and subsequent authority before transferring the result to another petroleum project or ordinary business; no present-law or 2025-Act mapping is certified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, judicial start and source headnote discrepancies

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3; 5; 6

Paragraphs: Cover; headnote; jurisdiction; 1–6

Source role: reported metadata and judicial text

2.

Topic: Participating interests, assessment, amount and procedural years

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: 2–9

Source role: judicial text

3.

Topic: Quoted section 42 and contract-only allowance limitation

Source url: [Open cited source](#)

Pdf pages: 8; 9; 11; 12; 13; 14

Paragraphs: 10; 16–22

Source role: judicial text with quoted statute

4.

Topic: Production-sharing economics and mandatory forex accounting

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: 11–15

Source role: judicial text

5.

Topic: PSC articles, special accounting and translation rules

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15

Paragraphs: 21–25

Source role: judicial text

6.

Topic: Field operations, cash calls and actual translation result

Source url: [Open cited source](#)

Pdf pages: 16; 17

Paragraphs: 26–28

Source role: judicial text

7.

Topic: Cost/profit oil and rejection of illusory-loss contention

Source url: [Open cited source](#)

Pdf pages: 17; 18

Paragraphs: 29–31

Source role: judicial text

8.

Topic: Loan exclusion, tiered accounts, year-end note and relief

Source url: [Open cited source](#)

Pdf pages: 18; 19

Paragraphs: 32–33

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

42(1): Special deductions operate through the particular qualifying PSC, including its specified allowances and accounting method; no unlimited contractual displacement of tax law

42(1)(c): Depletion allowance not supplied by this PSC and expressly unavailable to that extent

293a: Notification No. 9997 dated 8 March 1996 described in paragraph 3; co-venturers separately assessed for their shares rather than as an AOP

115ja: Historical return described in paragraph 4; no distinct MAT computation or book-profit add-back issue decided

44bb / 32: Mentioned as statutory contrast or in the quoted section 42 text; no independent section 44BB presumptive-income or general depreciation ruling

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.H. Kapadia, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER ASSESSMENT YEARS IN PROCEDURAL HISTORY

1998-99; 2000-01; 1996-97

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 19 PDF pages; SHA-256

7b48369285b54efbf9f07f22f826b1cc5b295f0d6fb856f407774112e205749. Original bytes preserved.

Judicial paragraphs 1–33 on physical pages 5–19 (SCR 1172–1186). Pages 1–4 and page 5 above the author line are reporter/editorial material. Paragraphs 6–8 report the lower proceedings; paragraph 10 quotes section 42(1); later paragraphs analyse the PSC and Appendix C. No adjacent judgment.

Open cited source rendition

AY 1999-00 supplies the return, amounts and lead facts (paragraphs 4–7). Paragraph 7 reports that the Tribunal proceedings also concerned AYs 1998-99, 2000-01 and 1996-97; these are not individually mapped to separate Supreme Court appeals here. The headnote's 1990-2000 is a source error.

The headnote on physical page 2 prints AY 1990-2000; judicial paragraph 4 on page 6 expressly identifies AY 1999-00. The judicial year is used.; The headnote's opening depletion formulation must not be treated as an award of depletion allowance: judicial paragraph 19 expressly says this PSC did not provide it and section 42(1)(c) was unavailable to that extent.; The headnote on physical page 3 refers to the Income Tax Act, 1962; the judgment and statutory quotation identify the 1961 Act. Its concluding loan/accounting summary is numbered paragraph 31, but that discussion appears in judicial paragraph 32.; The Tribunal/High Court history includes loan language. Judicial paragraphs 26 and 32 correct that characterisation: the relevant cash call was a contribution, not borrowing.; Paragraph 7 lists four Tribunal assessment years but uses AY 1999-00 as the factual illustration. Paragraph 8 lists connected High Court appeals 74/07, 76/07 and 77/07, while the jurisdiction line identifies ITA 77/2007. No unsupported appeal-to-year mapping is supplied.; The PSC discussion distinguishes contract-level accounting, individual taxes and company-account notes. The references to taxes within the Government take do not create a universal exemption from separately payable tax.; Section 115JA appears only in the return narrative; Accounting Standard 11 is displaced for this specific PSC regime, not generally invalidated.

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. Same-judgment identity or boundary comparisons, where actually checked, are separately described and are not later-treatment verification. No current-law or 2025-Act certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 19](#)

SHA-256: 7b48369285b54efbfb9f07f22f826b1cc5b295f0d6fb856f407774112e205749

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