

Commissioner of Income Tax, Rajkot v. M/s Gujarat Siddhi Cement Ltd.

Civil Appeal No. 6144 of 2008 / Arising out of SLP (Civil) No. 12699 of 2007

[2008] 14 SCR 688 | 2008-10-17

Whether the claimed foreign-exchange increase in cost of plant and machinery justified additional investment allowance for AY 1993-94 under the then section 43A(1), where the factual fluctuation details had not been furnished.

32A | 33 | 43A(1) | 43A(2) (historical) | 41(1)(a) (as printed in paragraph 9) | 260A

Two-judge bench | Dr. Arijit Pasayat, J. | Dr. Mukundakam Sharma, J.

Assessment years: 1993-94

Limited historical section 43A remand; no final allowance

For AY 1993-94 the Court remitted factual entitlement to the Tribunal; it neither finally allowed nor disallowed the extra investment allowance. The quoted Arvind Mills disposal and amounts concern another case. Section 43A changed from 1 April 2003; the headnote substitution label, unusual section 41 reference and incomplete statutory quotation require the stated cautions. No current-law or comprehensive later-treatment certification is given.

01 FACTS OF THE CASE

The assessee claimed increased investment allowance because exchange-rate fluctuation had allegedly increased the cost of plant and machinery installed in earlier years. The Assessing Officer disallowed the claim on the earlier-installation ground. CIT(A) upheld disallowance, recording that no arguments or factual details about the alleged fluctuation had been furnished. The Tribunal allowed the claim following Gujarat Fertilizers, and the High Court dismissed Revenue's section 260A appeal on that authority. Revenue appealed to the Supreme Court for AY 1993-94, corresponding to previous year 1992-93 (paragraphs 2–6).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court focused on the historical section 43A(1), which applied to an increase or reduction in the relevant liability due to exchange-rate change in the previous year. It distinguished investment allowance under section 32A from development rebate under section 33: Arvind Mills concerned the latter, for which the then section 43A(2) expressly excluded the subsection (1) adjustment (paragraphs 6–8).

The extended Arvind Mills passage is a quotation of another case, including that case's figures and its appeal being allowed. It is not Gujarat Siddhi Cement's disposition. The present Court emphasised the previous-year fluctuation and reproduced the then section 43A(1). It also observed that a reduction of liability should bring an earlier extra benefit into account, using the printed reference to section 41(1)(a) Explanation 2. No reduction year or resulting tax amount was adjudicated here. The Court expressly stated that the position after the Finance Act, 2002 substitution effective 1 April 2003 was different (paragraphs 7–10).

The factual gap remained decisive. CIT(A) had categorically recorded the absence of arguments and details. The assessee was therefore to receive an opportunity before the Tribunal to establish the exchange-fluctuation facts, with its claim assessed under section 43A(1) as it stood for the relevant year (paragraphs 11–12).

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

03 JUDICIAL DECISION

The appeal was disposed of by remitting the matter to the Tribunal for the limited purpose of allowing the assessee to establish the factual foreign-exchange position and considering whether the deduction was justified under the historical section 43A(1). The Court neither finally granted the additional investment allowance nor finally rejected it, and did not quantify a deduction or tax recovery. The operative paragraphs contain no costs direction (paragraphs 12–13).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Neither party finally on tax merits; Revenue obtains reconsideration and the assessee an opportunity to establish facts

Appeal disposed of with a limited remand to the Tribunal

Historical legal framework explained; factual entitlement and amount left for Tribunal determination

AY 1993-94 and pre-1 April 2003 section 43A(1). The result is not an unconditional investment allowance, a final development-rebate disallowance, a quantified section 41 charge, or a current-law foreign-exchange rule.

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

05 AKHB REVIEW POINT

Identify the allowance and the statutory version before using a foreign-exchange precedent. A section 33 development-rebate exclusion cannot simply be imported into a section 32A claim. Establish the imported asset or qualifying borrowing, opening liability, relevant exchange movement and year-specific rupee adjustment with evidence; the remand arose because the record lacked that proof.

Keep the actual remedy visible. The Tribunal must decide entitlement on the established facts; the quoted Arvind Mills amounts and its allowed-appeal language do not decide this assessee's case. The report's headnote misattributes the 2002 substitution to section 32A, while judicial paragraph 6 identifies section 43A. The unusual paragraph 9 reference to section 41(1)(a) Explanation 2, also present in the independently checked official rendition, should be checked against the applicable statute before any separate recapture proposition is advanced. The note does not silently repair or certify that text.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and inconsistent reporter statutory heading

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover; headnote; jurisdiction; 1–2

Source role: reported metadata and judicial text

2.

Topic: Factual gap, earlier proceedings, submissions and relevant year

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: 2–6

Source role: judicial text including party submissions

3.

Topic: Investment allowance distinguished from development rebate; historical statute

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: 6

Source role: judicial text

4.

Topic: Quoted Arvind Mills, whose figures and disposal must be excluded

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8; 9

Paragraphs: 7 and opening of 8

Source role: judicial text with quoted precedent

5.

Topic: Previous-year liability adjustment, printed section 41 reference and statutory-version limit

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: 9–10

Source role: judicial text

6.

Topic: Limited remand and actual disposition

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: 11–13

Source role: judicial text

7.

Topic: Official same-decision identity, unusual statutory text, remand and signature date

Source url: [Open cited source](#)

Pdf pages: 1; 8; 9; 10; 11

Paragraphs: Identity; 9–13; signatures/date

Source role: official same decision comparison

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

32a: Investment allowance claimed on a foreign-exchange-driven increase in plant and machinery cost.

33 / historical 43a(2): Development-rebate exclusion discussed to distinguish Arvind Mills from the investment-allowance question.

43a(1): Pre-substitution provision governing the relevant previous-year liability fluctuation; the Court notes a materially different provision from 1 April 2003.

41(1)(a): Paragraph 9 prints a reference to section 41(1)(a) Explanation 2 when discussing reduced liability. This wording is preserved as a source caution, not treated as a separately adjudicated quantified charge or independently verified statutory proposition.

260a: Revenue's High Court appeal route.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dr. Arijit Pasayat, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SCOPE AND LIMITS OF THE RECORDED TREATMENT CHECKS

1.

Source url: [Open cited source](#)

Pdf pages: 1; 8; 9; 10; 11

Paragraphs: Identity; 9–13; signatures/date

Result: Official same-decision rendition confirms the limited remand and date; it repeats the unusual section 41 reference and incomplete statutory closing clause.

Scope limit: Source-rendition comparison, not subsequent judicial treatment.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 11 PDF pages; SHA-256

76cf5e63671a14cb7e0aad942c0d9b93a640355282740bfc5fa32b487e911e47. Original bytes preserved.

Judicial paragraphs 1–13 on physical pages 3–11 (SCR 690–698). Pages 1–2 and page 3 above the author line are reporter/editorial material. Paragraphs 4–5 record counsel submissions; paragraph 7 quotes Arvind Mills, including that earlier case's disposal and amounts; paragraph 9 quotes the historical statute. No adjacent judgment.

Open cited source rendition

Paragraph 6 expressly identifies AY 1993-94 and previous year 1992-93.

The reporter's opening statutory heading assigns the Finance Act, 2002 substitution to section 32A. Judicial paragraphs 6 and 10 identify section 43A, effective 1 April 2003; the judicial explanation controls this note.; Paragraph 7 quotes Arvind Mills paragraphs 13, 18, 19, 22 and 23. Rs.52.48 lakhs/Rs.61 lakhs, the allowed appeal and its no-costs order belong to that quoted case, not this appeal.; Paragraph 9 prints section 41(1)(a) Explanation 2. The same wording appears in the official SCI rendition. It is not silently corrected, independently certified as the applicable statutory provision, or used to assert an adjudicated tax recovery.; The final clause of the reproduced section 43A(1) reads incompletely in both checked renditions. The note paraphrases only the clear relevant liability-adjustment proposition and is not a substitute for the enacted statutory text.; The official rendition leaves the Civil Appeal number blank but identifies SLP(C) 12699/2007; the reported rendition supplies Civil Appeal 6144/2008. The matching parties, author, date, facts and operative remand establish the comparison without filling the blank source.; The merits remain open on remand. This is a foreign-exchange investment-allowance case, not a Revenue non-appeal/consistency case despite its inclusion in this review group.

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 comparison is separately bounded below; no current-law or Income-tax Act, 2025 certification.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 11

SHA-256: 76cf5e63671a14cb7e0aad942c0d9b93a640355282740bfc5fa32b487e911e47

official judgment same decision comparison - PDF pages: 11

SHA-256: f08ccf7dd9907da5a232581e75f90efdf89df73ddffdbae1787f6a005b6a0d5

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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