

Mcorp Global Pvt. Ltd. v. Commissioner of Income-tax, Ghaziabad

Civil Appeal No. 955 of 2009

[2009] 2 SCR 213 | 2009-02-12

Whether depreciation could be withdrawn on the first bottle-leasing transaction after allowance and an unchallenged favourable AO remand finding, and whether the separately disputed second lease was proved.

32(1)(ii) | 254(1)

Two-judge bench | S.H. Kapadia, J. | H.L. Dattu, J.

Assessment years: 1991-92

Split result and Tribunal-specific enhancement limit

Only the first transaction's Rs. 18,04,572 disallowance was deleted; the second transaction's Rs. 30,17,122 disallowance remained and its requested remand was refused. The first result reflects the AO's allowance and unchallenged remand findings, not blanket approval of lease arrangements. The enhancement limit concerns the Tribunal, not all tax authorities. The headnote's 1999 date conflicts with the judicial 1991 date. Current law and comprehensive later treatment are unverified.

01 FACTS OF THE CASE

For AY 1991-92, the assessee traded in machinery and also leased assets. Under the lease dated 15 February 1991 it purchased 5,46,000 soft-drink bottles for Rs. 19,54,953 from Glass & Ceramic Decorators for direct supply to Coolade Beverages. The original AO order allowed depreciation only for 42,000 bottles then found received before 31 March 1991 and disallowed Rs. 18,04,572 for the rest. After a CIT(A) remand, the AO found all bottles paid for and dispatched before that date and allowed 100% depreciation. That finding remained unchallenged. Nevertheless the Tribunal treated the transaction as financing, relying on the lack of renewal or return of the bottles, and denied depreciation; the High Court affirmed (paragraphs 2–5).

The second lease, dated 15 March 1991, involved the assessee as lessor, Aravali Leasing as lessee, Arizona Printers & Packers as manufacturer, and Unikol Bottlers as sub-lessee. The sublease was dated 8 March 1991. The AO found the transaction unproved and sham, citing missing transport evidence and the sublease preceding the lessee's acquisition of rights. Depreciation of Rs. 30,17,122 was disallowed, and the Tribunal and High Court concurred. The assessee challenged both transactions in this appeal (paragraphs 8–10).

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

02 DISCUSSION BY THE HON'BLE COURT

For the first transaction, the Court applied *Hukumchand Mills*: the Tribunal could not enhance the assessment by taking away the depreciation benefit already granted by the AO. It also rejected treating 42,000 bottles under the same arrangement as leased assets while treating the balance as merely financing. Separately, the AO's favourable findings after remand as to all 5,46,000 bottles had become final and had not been challenged. Those grounds supported deleting the Rs. 18,04,572 disallowance (paragraphs 6–7).

For the second transaction, evidence said to show manufacture, dispatch, delivery or put-to-use did not answer whether the alleged lease itself was proved. The sublease preceded the lease; nothing in the lease made its commencement retrospective or documented an earlier arrangement or practice. The sublease described Aravali as absolute owner, while the later lease prohibited subletting without the lessor's permission, and no such permission was produced. The Court found no defect in the concurrent factual conclusion that this transaction was not proved (paragraphs 10–11).

The assessee alternatively requested a remand to tax only interest embedded in rentals if the arrangement was financing. The Court declined: the concurrent finding was that the transaction was sham and unproved, so that proposed recalculation did not follow (paragraph 12).

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

03 JUDICIAL DECISION

The civil appeal was partly allowed without costs. The Court deleted the first-transaction depreciation disallowance of Rs. 18,04,572 and sustained the second-transaction disallowance of Rs. 30,17,122. It refused the requested remand for the second transaction (paragraphs 12–14).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Split: assessee on the first transaction; Revenue on the second

Appeal partly allowed; Rs. 18,04,572 disallowance deleted, Rs. 30,17,122 disallowance sustained; no remand and no costs

Final on the two identified depreciation disallowances, through procedural finality/appellate-power limits for the first and concurrent factual failure of proof for the second

The non-enhancement holding concerns the Tribunal under section 254(1), as applied to the benefit granted by the AO; it is not a prohibition on all tax authorities' enhancement powers. Relief does not validate every lease or permit depreciation for sham/unproved transactions.

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

05 AKHB REVIEW POINT

Keep the two transactions and the two routes to relief separate. On the first, identify precisely what the AO allowed and whether the later favourable remand finding was challenged; do not reduce the holding to a generic endorsement of lease finance or restrict the final relief to the original 42,000 bottles. On the second, a purchase, dispatch or use certificate cannot replace proof of a coherent chain of lease rights, operative dates and permission to sublet.

State the appellate-power proposition at the correct institutional level: this is a Tribunal enhancement case, not an analysis of every appellate or revisional jurisdiction. A finding that a transaction is unproved also prevented the requested alternative reconstruction of rentals as financing income. Historical depreciation rates and later judicial treatment remain separately to be checked.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, correct assessment year and editorial date discrepancy

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Cover; jurisdiction; 1–2

Source role: reported metadata and judicial text

2.

Topic: First lease facts and unchallenged remand finding

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: 3–5

Source role: judicial text

3.

Topic: Tribunal power and first-transaction relief grounds

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: 6–7

Source role: judicial text

4.

Topic: Second transaction: evidence, submissions and rejected lease explanation

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: 8–11

Source role: judicial text

5.

Topic: Alternative interest-only computation rejected and split operative relief**Source url:** [Open cited source](#)**PDF pages:** 9; 10**Paragraphs:** 12–14**Source role:** judicial text**ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS****32(1)(ii):** Depreciation claimed on two separate bottle-leasing transactions in AY 1991-92**254(1):** Tribunal's power considered through the Court's application of Hukumchand Mills under former section 33(4) of the 1922 Act; no ruling on first-appellate or revisional enhancement powers**JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS**

S.H. Kapadia, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

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

Identified source rendition: 10 PDF pages; SHA-256

1d5d00ed8de629f0beababc2de22f18e67cf192e0d03c4bac591d4b39b513056. Original bytes preserved.

Judicial paragraphs 1–14 on physical pages 4–10 (SCR 216–222). Pages 1–3 and opening of page 4 are editorial/report material. No adjacent judgment.

[Open cited source rendition](#)

Judicial paragraph 2 states AY 1991-92, corresponding to the previous year ending 31 March 1991. The cover-headnote's 31 March 1999 is not used as a judicial fact.

The cover-headnote prints 31 March 1999; judicial paragraphs 2, 4 and 7 consistently identify the relevant ending as 31 March 1991. The latter governs this note.; OCR on the editorial third page varies 15/16 March and misreads the Hukumchand citation year. The inspected page and judicial text support lease date 15 March 1991 and Hukumchand Mills (1967) 63 ITR 232.; Judicial paragraph 7 first discusses protection of the original 42,000-bottle allowance, then separately records finality of the AO remand finding and error in disallowing Rs. 18,04,572. The concluding paragraph 13 expressly deletes that entire first-transaction disallowance.; Paragraph 5 recites aggregate claims and first-round allowance figures; this note does not invent a new overall final assessment or tax/refund amount from them.; The cited Hukumchand Mills rule and the evidence recited in submissions are distinguished from a fresh independent review of that precedent or acceptance of those submissions.

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 narrowly identified; no current-law or 2025-Act certification.

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

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