

Nectar Beverages Pvt. Ltd. v. Deputy Commissioner of Income Tax

Civil Appeal No. 5291 of 2004 and connected proceedings (full list below)

[2009] 9 SCR 1174 | 2009-07-06

Whether recovery on sale of bottles and crates fully depreciated under the former low-value-asset proviso could be taxed as a balancing charge through section 41(1) after the historical omission of section 41(2), and how the later block-asset transition affected the grouped appeals.

2(11) | 28 | 32(1)(ii) first proviso (historical) | 41(1) | 41(2) (historical) | 50

Two-judge bench | S.H. Kapadia, J. | Aftab Alam, J.

Assessment years: 1990-91 to 1998-99 (batch range stated)

Historical non-block assets; limited Nectar remand

This decision concerns the discontinued low-value-asset regime, not a general exemption for selling depreciated assets. Later-purchased block assets remain within the section 50 treatment stated by the Court. Only Nectar CA 5291/2004, 5293/2004 and 359-360/2006 were remanded for the accounting-computation check. The report contains a section 31/32 cross-reference discrepancy and distinct effective-date/purchase-date formulations. Current law and comprehensive later treatment are unverified.

01 FACTS OF THE CASE

The batch concerned AYs 1990-91 to 1998-99. Nectar manufactured soft drinks and bought bottles and crates costing less than Rs. 5,000 each. Their whole cost had been allowed under the then first proviso to section 32(1)(ii) in the acquisition/use year. When worn out, they were sold and the proceeds were recorded as miscellaneous income. The Department sought to tax Rs. 50,850 under section 41(1), treating recovery of depreciation as recovery of expenditure despite the omission of the former balancing-charge provision (paragraphs 2-7).

The post-transition subgroup included Goa Bottling, whose lead appeals concerned AY 1998-99. It received Rs. 6,89,91,901 from scrap bottles and crates in the year ended 31 March 1998. The return separated the proceeds of assets purchased prior to 31 March 1995 from those purchased after 1 April 1995. It took the latter into its section 50 short-term-capital-gain computation, while maintaining that the earlier, wholly depreciated assets had never entered the block (paragraph 11).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the Department's attempt to import the balancing charge into section 41(1). The subsections occupy different statutory fields: section 41(1) concerns recovery of the loss/expenditure or remission/cessation of the trading liability specified there; former section 41(2) separately taxed recovery of depreciation on disposal of qualifying assets, within its limits. Treating depreciation itself as the loss, expenditure or trading liability covered by section 41(1) would make the separate balancing-charge provision unnecessary. Sections 41(3) and 41(4) further illustrate the distinct subjects addressed by the subsections (paragraphs 8–9).

The Court expressly confined its principal conclusion to the low-value depreciable assets which had not entered the block during the relevant historical period. Although block depreciation began from 1 April 1988, the first proviso to section 32(1)(ii) continued until its deletion with effect from 1 April 1996. For the Goa Bottling facts, the bottles/crates purchased prior to 31 March 1995 did not form part of the block and their sale profits were not taxable as the asserted balancing charge under section 41(1) or under section 50. The assets purchased after 1 April 1995 did form part of the block and were subject to section 50 in that case (paragraphs 9–12).

Nectar's presentation of the receipts as miscellaneous income required one further, narrowly defined check. The Court directed the AO to inspect whether that presentation understated net profits before section 28 and taxable profits after section 28. Other assesseees, including Industrial Oxygen, now Inox Air Products, had specifically recorded profits from sale of assets; the Court required no corresponding verification for them (paragraph 13).

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

03 JUDICIAL DECISION

Subject to the limited accounting-computation remand, the assesseees' appeals succeeded, without costs. Only Nectar's Civil Appeal Nos. 5291/2004, 5293/2004 and 359–360/2006 were remitted to the AO for the paragraph 13 check. The judgment expressly preserved section 50 treatment for the identified later-purchased block assets; it did not exempt every receipt from disposing of a depreciated asset (paragraphs 12–14).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the rejected section 41(1) balancing-charge theory, subject to the stated block-asset treatment and limited Nectar remand

Assessee appeals succeed subject to paragraph 13; four specified Nectar appeals remitted for limited computation verification; no costs

Final legal rejection of the asserted section 41(1) treatment for the identified non-block low-value assets; Nectar's specified factual computation verification remained open

Confined to the historical provisions and asset cohorts discussed. Civil Appeal Nos. 5291/2004, 5293/2004 and 359-360/2006 alone are remanded; other appeals are not. No general exclusion for all scrap sales, all fully depreciated assets or all present-day block disposals.

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

05 AKHB REVIEW POINT

Start with the asset's actual depreciation history and entry, or non-entry, into the statutory block. A full deduction under a discontinued low-value-asset proviso is not enough to treat all later disposal proceeds alike. Reconcile purchase dates, the applicable assessment-year version and the sale-computation treatment before relying on the distinction between sections 41(1), former 41(2) and 50.

For the remanded Nectar appeals, retain the computation bridge from the accounts to taxable income: the Court rejected one charging theory but still required verification of a possible understatement caused by the presentation of sale receipts. Do not describe that remand as fresh authority to tax the receipts under section 41(1), or extend it to the other assesseees. Historical section numbering and effective-date recitals need checking against the applicable enactment; no current-law or 2025-Act certification is supplied.

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

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 5291 of 2004 / Civil Appeal No. 5296 of 2004 / Civil Appeal No. 5293 of 2004 / Civil Appeal Nos. 356-357 of 2006 / Civil Appeal Nos. 359-360 of 2006 / Civil Appeal Nos. 361-362 of 2006 / Civil Appeal Nos. 363-364 of 2006 / Civil Appeal No. 5858 of 2006 / Civil Appeal No. 108 of 2007 / Civil Appeal No. 4130 of 2009 / Civil Appeal No. 4131 of 2009 / Civil Appeal No. 4132 of 2009

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and reported appeal group

Source url: [Open cited source](#)

Pdf pages: 1; 4; 5

Paragraphs: Cover; jurisdiction and connected appeals; 1-3

Source role: reported metadata and judicial text

2.

Topic: Lead facts, competing contentions and historical statutory text

Source url: [Open cited source](#)

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

Paragraphs: 4–7

Source role: judicial text

3.

Topic: Distinct statutory fields and express non-block limitation

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: 8–10

Source role: judicial text

4.

Topic: Goa Bottling asset cohorts, date/section discrepancy and section 50

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: 10–12

Source role: judicial text

5.

Topic: Appeal-specific remand and operative relief

Source url: [Open cited source](#)

Pdf pages: 13

Paragraphs: 13–14

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

32(1)(ii) first proviso / 2(11): Historical low-value plant deduction and whether bottles/crates entered a block of assets

41(1) / former 41(2): Distinct recoupment and balancing-charge provisions; the omitted balancing-charge rule cannot simply be imported into section 41(1)

50: The particular post-transition block-asset disposal treatment in paragraphs 11–12

28: Only the expressly limited Nectar computation remand; no new general charging determination

41(3) / 41(4): Contrasting scientific-research and bad-debt provisions used to explain distinct statutory fields, not independent disputed claims

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: 13 PDF pages; SHA-256

db9001780c2c8e8a2de319b065c27b8472d66360022a1cb88dab5b3217df317a. Original bytes preserved.

Judicial paragraphs 1–14 on physical pages 5–13 (SCR 1178–1186). Pages 1–4 and opening of page 5 are editorial headnote, case list and representation material. No adjacent judgment.

Open cited source rendition

Paragraph 2 states the batch range of AYs 1990-91 to 1998-99; it does not map every appeal to a year. Paragraph 11 specifically identifies the Goa Bottling subgroup lead matter, Civil Appeal Nos. 356–357/2006, as AY 1998-99. No separate AY for Nectar's lead appeal is inferred.

Paragraph 12 and the headnote print section 31(1)(ii), while paragraphs 4, 6, 9–11 identify the relevant first proviso as section 32(1)(ii). This is a visible source discrepancy, not a new section 31 holding.; Paragraphs 9–10 state deletion of the low-value proviso with effect from 1 April 1996, whereas paragraphs 11–12 distinguish the stated purchase-date cohorts before 31 March 1995 and after 1 April 1995. The note preserves the separate assessment-year/effective-date and purchase-year formulations without silently rewriting either or deciding the exact boundary days.; Paragraph 8 describes the historical omission period of section 41(2); this recital is not a complete statutory amendment chronology or a present-law statement.; Paragraph 11 calls its subgroup four civil appeals while its proceeding references include a paired appeal. The reported references are retained without assigning all converted SLPs to newly numbered appeals.; The headnote is editorial. The operative limitation and appeal-specific remand come from judicial paragraphs 9 and 13–14.

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: 13

SHA-256: db9001780c2c8e8a2de319b065c27b8472d66360022a1cb88dab5b3217df317a

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