

M/s Liberty India v. Commissioner of Income Tax

Civil Appeal Nos. 5891-5898 of 2009 and connected proceedings (full list below)

[2009] 13 (ADDL.) SCR 1037 | 2009-08-31

Whether DEPB and duty drawback profits were derived from the eligible industrial business for deduction under the then section 80-IB and the common scheme of sections 80-I/80-IA/80-IB.

80-IB(1) | 80-IB(2) | 80-IB(3) | 80-IB(13) | 80-IA(1) | 80-IA(5) | 80-I

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

Assessment years: 2001-02

01 FACTS OF THE CASE

The lead assessee was a partnership with a small-scale undertaking manufacturing fabrics and textile items. For assessment year 2001-02 it claimed section 80-IB relief on increased profits of Rs. 22,70,056 attributable to DEPB and duty drawback credits. The Assessing Officer rejected both components. The Commissioner (Appeals) accepted duty drawback but not DEPB; the Tribunal rejected duty-drawback relief, and the High Court held that the necessary nexus was absent. The Supreme Court considered a batch of appeals on the same statutory issue (paragraphs 2-6).

Source: [reported judgment / paragraphs 2-6 / PDF pages 8, 9 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated the deductions as profit-linked incentives. Eligibility of an undertaking did not make all its receipts deductible: the statutory words derived from restricted eligible profits to first-degree sources. Section 80-IA(5), applied through section 80-IB(13), required the eligible business to be computed as a stand-alone source, and could not be circumvented by devices inflating its profits (paragraphs 12-15).

DEPB sought to neutralise customs duty on deemed import content through a scheme-based credit. Duty drawback was governed by section 75 of the Customs Act and section 37 of the Central Excise Act, using the average duties for classes of goods rather than necessarily refunding the exact amount paid by an individual manufacturer. These statutory or policy schemes, rather than the manufacturing undertaking, were the sources of the receipts. The resulting incentive profits were ancillary profits outside the required nexus (paragraphs 16-18).

The assessee's proposed credit against manufacturing or purchase costs under AS-2 did not change that source for the purposes of sections 80-IA/80-IB. The Court's illustration separated a duty-drawback receipt from the profit eligible for deduction. These observations address the deduction computation and should not be paraphrased as a general prohibition on all accounting netting or Cenvat treatment (paragraphs 19-23).

Source: [reported judgment / paragraphs 12-23 / PDF pages 21, 22, 23, 24, 25, 26 / judicial text](#)

03 JUDICIAL DECISION

DEPB benefits and duty-drawback receipts were held not to form part of the net profits of the eligible undertaking for deduction under sections 80-I/80-IA/80-IB as then applicable. The appeals were dismissed without costs (paragraphs 24-25).

Source: [reported judgment / paragraphs 24-25 / PDF pages 26 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the export-incentive deduction issue

Appeals dismissed; no order as to costs

Final exclusion of the DEPB/duty-drawback profits from eligible deduction profits

The judgment focuses on the historical section 80-IB issue and common scheme identified by the Court. It does not declare the receipts untaxable, decide the distinct section 80HHC formula, or adjudicate every subsidy/reimbursement programme.

Source: [reported judgment / paragraphs 24-25 / PDF pages 26 / judicial text](#)

05 AKHB REVIEW POINT

Maintain a receipt-by-receipt reconciliation separating business-income chargeability, deduction eligibility and the computation of eligible profits. Calling a receipt a reimbursement or crediting it against costs cannot substitute for the statutory source test applied here. The underlying incentive scheme and applicable year matter.

Topman Exports concerns a different question under sections 28 and 80HHC: splitting DEPB face value from transfer profit for a statutory formula. Its cost discussion should not be presented, on these texts alone, as overruling Liberty India's section 80-IB source analysis.

Source: [reported judgment / paragraphs 14-24 / PDF pages 22, 23, 24, 25, 26 / judicial text](#); [reported judgment / paragraphs Topman: 14-22 / PDF pages 25, 26, 27, 31, 32, 33, 34 / judicial text](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 5891-5898 of 2009 / Civil Appeal No. 5271 of 2007 / Civil Appeal No. 5571 of 2007 / Civil Appeal No. 1465 of 2008 / Civil Appeal Nos. 1499-1500 of 2008 / Civil Appeal Nos. 1438-1440 of 2008 / Civil Appeal No. 1915 of 2008 / Civil Appeal Nos. 2408-2411 of 2008 / Civil Appeal No. 5157 of 2007 / Civil Appeal No. 3479 of 2008 / Civil Appeal No. 2648 of 2008 / Civil Appeal No. 4125 of 2008 / Civil Appeal Nos. 6217-6218 of 2008 / Civil Appeal No. 427 of 2009 / Civil Appeal Nos. 429-430 of 2009 / Civil Appeal Nos. 364-365 of 2009 / Civil Appeal Nos. 1257-1258 of 2009 / Civil Appeal No. 3532 of 2009 / Civil Appeal No. 451 of 2006

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

80AB: reproduced in paragraph 11; 28: business-income classification argument; 260A: High Court appeal route; Customs Act, 1962, section 75; Central Excise Act, 1944, section 37: sources of duty drawback; Foreign Trade (Development and Regulation) Act, 1992, section 5: DEPB policy context; Accounting Standard 2: cost-netting argument examined for the deduction computation

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S. H. Kapadia, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

DIFFERENT STATUTORY QUESTIONS IN THE COMPARED DECISIONS

Case id: sc-2012-02-08-topman-exports

Classification: editorial distinct statutory questions

Finding: Topman decides sections 28/80HHC classification and formula; Liberty decides the historical industrial-profit source requirement under sections 80-I/80-IA/80-IB. No overruling relationship is inferred from these texts.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 26 PDF pages; SHA-256

5db8633102fd24ac85be84b344745e5bc679791cd8c15a21e444788a02ec121a. Original bytes preserved.

Headnote and case references on physical pages 1-7; jurisdiction/appearances on page 7; judicial paragraphs 1-25 on pages 8-26, printed SCR pages 1044-1062. No adjacent judgment.

Open cited source rendition

2001-02 is expressly stated for the Liberty India lead matter; no separate assessment years are supplied for all companion appeals.

The primary source is the reported rendition; no separate signed-original verification is claimed.; The judicial discussion of AS-2 is reproduced with awkward internal wording; the note states the clear deduction-specific conclusion rather than inventing a universal accounting rule.; Lead-year facts are not imputed to every companion appeal.

STATUTORY SCOPE

Historical provisions and assessment years only; no automatic mapping to the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment or current-law audit. Any particular relationship checked from a later judgment is identified separately.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 26

SHA-256: 5db8633102fd24ac85be84b344745e5bc679791cd8c15a21e444788a02ec121a

reported judgment - PDF pages: 34

SHA-256: dbefc6a3b8e0d4be693c3ad731a45518545d4b87ac58b4e7d36ad0a1eafe8587

Related note: M/s Topman Exports v. Commissioner of Income Tax, Mumbai

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