

M/s. Mepco Industries Ltd., Madurai v. Commissioner of Income Tax & Anr.

Civil Appeal No. 7662 of 2009 / Civil Appeal No. 7663 of 2009

[2009] 15 (ADDL.) SCR 1026 | 2009-11-19

Whether the Commissioner could use section 154 to reverse his section 264 subsidy treatment merely by applying the later Sahney Steel decision to Mepco's different scheme.

154 | 264 | 147

Three-judge bench | S.H. Kapadia, J. | H.L. Dattu, J. | Deepak Verma, J.

Assessment years: 1993-94, 1994-95

Section 154 success; no blanket subsidy merits rule

The Court rejected this change-of-opinion rectification after examining why different subsidy schemes could not be equated. It did not overrule Sahney Steel, classify all power or backward-area subsidies as capital, bar every use of later judicial authority, or decide a section 147 reopening. The record describes Mepco's receipt both as power subsidy and as setting-up support in a backward area. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The assessee manufactured potassium chlorates at its Pondicherry factory. It initially returned a power subsidy as revenue income for AYs 1993-94 and 1994-95, then sought revision under section 264 contending that the receipt was capital and relying on P.J. Chemicals. The Commissioner allowed the revision petitions on 30 April 1997 (paragraph 4).

After Sahney Steel was decided on 19 September 1997, the Commissioner invoked section 154 on 30 March 1998. His stated basis was that Mepco's power-tariff subsidy became admissible after production began and was consequently operational rather than capital. The Madras High Court's Single Judge and Division Bench upheld that approach. Mepco appealed in two matters (paragraphs 3–6).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court framed the question as the existence of a rectifiable mistake, not a free-standing rehearing of the assessment. It contrasted section 154's apparent-error function with the separate historical section 147 mechanism, noting that the latter had not been invoked even within the prescribed time. That contrast did not itself authorise reopening or decide its requirements in Mepco's case (paragraphs 3 and 6).

Subsidies differ by scheme and purpose. Sahney Steel concerned production incentives; Ponni Sugars concerned support linked to loan repayment. Mepco's receipt is described as power subsidy and, in paragraph 9, as subsidy for setting up an industry in a backward area. Classification therefore required examining the particular scheme and facts. The Commissioner had first accepted capital treatment, then adopted revenue treatment after Sahney Steel. The Court held that this was a change of opinion and that such an enquiry could not be carried out through section 154 (paragraphs 7–9).

The Court discussed Jiyajeerao's debatable-issue reasoning and distinguished Kil Kotagiri, whose advance-tax decision laid down an across-the-board legal rule in its own setting. It did not prescribe a blanket rule that a later judicial decision can never reveal a rectifiable error. Relying on the formulations in Deva Metal Powders and A.S.C.U., it required a patent, obvious record error rather than one established through elaborate argument, prolonged reasoning or a debatable legal choice (paragraphs 8–11).

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

03 JUDICIAL DECISION

The assessee succeeded: the impugned High Court judgment was set aside and both appeals were allowed without costs. The Commissioner's change-of-opinion exercise could not be sustained under section 154. The Court ordered no remand and did not undertake a fresh quantified assessment or adjudicate an alternative reassessment proceeding (paragraph 12, read with paragraphs 6–11).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Both appeals allowed; impugned High Court judgment set aside; no order as to costs

Final on the invalidity of the asserted section 154 rectification route in these two assessment matters

The favourable revision treatment was not displaced by this rectification. The ratio is not a general declaration that every power or backward-area subsidy is capital, that Sahney Steel was overruled, or that all subsequent judgments are unusable in rectification. No section 147 reassessment was adjudicated or authorised.

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

05 AKHB REVIEW POINT

Identify the alleged apparent error before debating the ultimate receipt classification. A later decision about a different subsidy cannot substitute for reading the actual scheme, especially when the proposed change requires a new factual or purposive evaluation. Preserve the original order, the specific rectification ground and the applicable scheme together.

Separate the taxpayer's procedural success from a universal substantive subsidy rule. The Court's fact-specific descriptions explain why the Commissioner changed opinion; they do not eliminate the need to examine a different scheme or the statutory version applicable to another year. Section 147 is mentioned only to distinguish legal routes, not as a ruling that reopening would necessarily have succeeded.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and two appeals

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Cover; reported jurisdiction; 1–3

Source role: reported metadata and judicial text

2.

Topic: Receipt, years, revision and rectification chronology

Source url: [Open cited source](#)

Pdf pages: 2; 3; 4

Paragraphs: 4–6

Source role: judicial text

3.

Topic: Rectification versus reassessment and change of opinion

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: 6–7

Source role: judicial text

4.

Topic: Differing subsidies and precedent distinctions

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: 7–9

Source role: judicial text

5.

Topic: Apparent-error standard and final disposal

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: 9–12

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

154: Whether the Commissioner could rectify the favourable revision orders on the stated basis of Sahney Steel.

264: Original revision proceedings in which the Commissioner accepted capital-receipt treatment.

147: Contrasted with rectification; not invoked by the Department and no reopening validity was decided.

28 / 214: Appear respectively in the discussion of Sahney Steel and the Kil Kotagiri advance-tax precedent; not separate merits issues adjudicated for Mepco.

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: 7 PDF pages; SHA-256

b5b27c40bb381c9e2d220d90b01be9b19f89f1cb4bff43d254d5ab38e5e4586b. Original bytes preserved.

Judicial paragraphs 1–12 on physical pages 2–7 (SCR 1027–1032). Page 1 and page 2 above the author line are reporter/editorial material. No adjacent judgment.

[Open cited source rendition](#)

Both years are expressly identified in judicial paragraphs 4 and 6; the source does not separately map each appeal number to one year.

Two appeals and two assessment years are stated, but no individual appeal-to-year mapping is supplied.; The source calls the receipt power subsidy and later describes it as subsidy for setting up an industry in a backward area. Preserve both descriptions; do not replace them with an independently reconstructed scheme or a blanket capital-receipt holding.; The Commissioner's post-production/operational-subsidy reasoning is the challenged rectification ground, not the Supreme Court's adoption of revenue classification.; The receipt distinctions concerning Sahney Steel and Ponni Sugars, and the account of Jiyajeerao and Kil Kotagiri, are embedded judicial discussion only; their original judgments were not independently reviewed for this note.; The OCR reads the final running page number as 1932; the visual source reads 1032. Physical PDF page 7 contains the concluding analysis and paragraph 12 disposition.

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 identified and bounded; no current-law or 2025-Act certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 7](#)

SHA-256: b5b27c40bb381c9e2d220d90b01be9b19f89f1cb4bff43d254d5ab38e5e4586b

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