

Navin Jindal v. Asstt. Commissioner of Income Tax

Civil Appeal No. 634 of 2006 / Civil Appeal No. 635 of 2006 / Civil Appeal No. 636 of 2006 / Civil Appeal No. 637 of 2006 / Civil Appeal No. 639 of 2006

[2010] 1 SCR 255 | 2010-01-11

Whether the accepted loss on renunciation of newly arising subscription rights was short-term or inherited the long holding period of the original equity shares.

2(29A) | 2(42A) | 45(1) | 48(1) | 48(2)

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

Assessment years: 1992-93

Historical rights-loss character; accepted cost is not a current rule

The AY 1992-93 issue was short-term versus long-term character of a separately arising subscription right; its loss amount was undisputed. The official published 2008 section 55(2)(aa)(ii) text provides nil cost for the renouncing holder within its terms, so the old diminution figure must not be reused as a present cost rule. The section 48(2) formula and source figures are historical; current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The lead assessee held 1,500 JISCO shares. After the January 1992 rights announcement, he became entitled to subscribe to 1,875 partly convertible debentures, and renounced that entitlement on 15 February 1992 for Rs.56,250. The accepted diminution in the original shares' value was Rs.3,00,000, producing an agreed loss of Rs.2,43,750. He treated it as short-term. Revenue treated it as long-term, which changed the sequence and amount of the historical section 48(2) deduction against separate long-term share gains. The Court expressly said quantum of the rights loss was not in issue (paragraphs 2–6).

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

02 DISCUSSION BY THE HON'BLE COURT

The right to subscribe was a distinct, independently transferable capital asset. Before a rights offer it remained inchoate within the shareholding; it crystallised when the company announced the offer. Character of the gain or loss therefore depended on the interval between creation of that right and its renunciation, rather than the original shares' acquisition date (paragraphs 8–9).

The Court drew on Dhun Dadabhoy Kapadia for the commercial relationship between new rights and diminution in the value of existing shares, while applying the charge/computation relationship under section 48. That discussion explained the accepted historical calculation; the amount of cost/loss itself had already been accepted in these appeals (paragraphs 6 and 9–11).

The Court compared the parties' calculations. Treating the rights loss as short-term meant applying the then section 48(2) deduction to the separate long-term gains before adjusting that loss, rather than first reducing those gains by a supposed long-term loss. It approved the assessee's computation on that basis (paragraphs 12–14).

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

03 JUDICIAL DECISION

The loss of Rs.2,43,750 in the lead case was short-term. The assessee's historical computation was held correct and Revenue's contrary calculation erroneous. All five listed assessee appeals were allowed without costs; no remand was ordered (paragraph 14).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assesseees

All five listed appeals allowed; no costs

Final on short-term character and the resulting historical computation sequence; loss quantum was undisputed

Does not certify the current cost of renounced rights, present holding-period thresholds or the superseded section 48(2) formula. The accepted diminution-based amount cannot be automatically transplanted to later statutory versions.

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

05 AKHB REVIEW POINT

Identify the asset transferred: the subscription right is separate from the pre-existing share. Record when that right crystallised and when it was renounced; do not automatically inherit the original share's holding period. Keep that character question separate from a dispute about acquisition cost, which was not live here.

A statutory-version check is especially important. The Income Tax Department's published section 55 text labelled 2008, which is later than the lead AY, expressly gives nil cost to the renouncing holder under section 55(2)(aa)(ii), subject to its terms. This bounded text check prevents using the accepted 1992-93 diminution figure as a present cost rule. It is not a complete amendment-history or current-law audit. The source's section 48(2) deductions and stated holding threshold are also historical.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, five appeals and lead year

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Cover; report list; 1–3

Source role: reported metadata and judicial text

2.

Topic: Offer, renunciation and undisputed quantum

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: 4–6

Source role: judicial text

3.

Topic: Historical statutory text

Source url: [Open cited source](#)

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

Paragraphs: 7

Source role: judicial text

4.

Topic: Separate right and holding period

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: 8–11

Source role: judicial text

5.

Topic: Comparative computation and outcome

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15; 16

Paragraphs: 12–14

Source role: judicial text

6.

Topic: Bounded later-than-AY cost provision

Source url: [Open cited source](#)

Locator: Version labelled 2008; section 55(2)(aa)(ii), with amendment footnotes 20 and 24

Source role: official statutory html

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(29a) / 2(42a): Historical long/short-term character of a separately transferable subscription right

45 / 48: Capital-gains computation and historical section 48(2) deduction sequencing; loss quantum was not contested

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: 16 PDF pages; SHA-256

6847df350784d41b9eae2ba4f2b784f9e2d5a919dd45b3a9ca8e16307bec3e4. Original bytes preserved.

Judicial paragraphs 1–14 on physical pages 3–16 (SCR 257–270), including the two-page comparative computation chart on 14–15. Pages 1–3 above author line are editorial/report material. No adjacent judgment.

[Open cited source rendition](#)

AY 1992-93 is expressly the lead case; no separate companion-year allocation is supplied.

Five appeal numbers are printed; CA 638/2006 is not listed and is not invented.; The comparative table and paragraph 13 contain differing amounts between the two parties, including Rs.23,18,200/Rs.23,31,200 and Rs.2,43,750/Rs.2,43,680. The Court notes differences as immaterial to the character question; the note does not harmonise them into a new calculation.; Physical pages 11 and 15 have substantial show-through/poor text extraction. Their quotation and calculation table were read visually; the clearer narrated figures and final conclusion control.; The loss quantum was expressly undisputed in paragraph 6. The Dhun Kapadia quotation is not treated as a separate present-law determination of rights cost.; The official 2008 section 55 version is later than the lead assessment year but earlier than this judgment; it is a statutory-version comparison, not a claimed post-2010 amendment.

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: 16](#)

SHA-256: 6847df350784d41b9eae2ba4f2b784f9e2d5a919dd45b3a9ca8e16307bec3e4

[official statutory html](#)

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