

Jt. Commissioner of Income Tax, Surat v. Saheli Leasing & Industries Ltd.

Civil Appeal No. 4278 of 2010 / Civil Appeal No. 4279 of 2010

[2010] 6 SCR 747 | 2010-05-07

Whether nil or loss returned/assessed income itself bars concealment penalty under section 271(1)(c), including the period before 1 April 2003, and whether Gold Coin's answer required reconsideration in light of Elphinstone.

271(1)(c) | 271(1)(c), Explanation 4(a) | 2(24) | 260A

Three-judge bench | K.G. Balakrishnan, CJI | Deepak Verma, J. | Dr. B.S. Chauhan, J.

Assessment years: 1995-96

Historical nil/loss penalty issue; remaining merits preserved

Saheli concerns AY 1995-96 and the historical section 271(1)(c)/Explanation 4(a) nil-or-loss issue. It applies Gold Coin but expressly leaves Revenue free to proceed on merits; it does not impose penalty automatically for every disallowance or decide a MAT/book-profit penalty issue. Verify the applicable return-date law, penalty ingredients, computation and subsequent treatment. No current-law or Income-tax Act, 2025 carryover is certified.

01 FACTS OF THE CASE

For the narrated AY 1995-96, assessment under section 143(3) on 27 February 1998 resulted in nil total income. The leasing company had claimed 100% depreciation on plant and machinery; the stated depreciation claim was Rs.1,05,08,824. Rs.24,22,531 was disallowed, reducing the loss without creating tax liability. No appeal was filed against that addition. The Assessing Officer imposed a minimum penalty of Rs.11,14,364, described as 100% of tax sought to be evaded on the concealed amount. The Commissioner (Appeals) confirmed it, but the Tribunal deleted it on the proposition that penalty could not be levied if the returned and assessed income were losses. The High Court dismissed the Revenue appeal at admission on a nil/loss-income rationale. The Supreme Court heard both Revenue appeals together and narrated one set of facts (paragraphs 2-3 and 9-18).

Source: [reported judgment / paragraphs Paragraphs 2-3, 9-18 / PDF pages 5, 7, 8, 9, 10 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court first criticised the cryptic High Court order and reiterated illustrative judgment-writing guidance, including relevance, clear ratio, logical sequence, selective treatment of authorities, plain language and prompt delivery. It initially considered remitting the legal question but decided to answer it itself (paragraphs 3-11).

The three-judge decision in Gold Coin Health governed. Its construction of section 271(1)(c) and Explanation 4(a), overruling Virtual Soft Systems, treated the amendment effective 1 April 2003 as clarificatory: penalty could also apply in the earlier period when concealed income merely reduced a returned loss and the assessed figure remained negative. Income in this statutory context includes negative income. Nil tax payable does not, by itself, defeat the penalty machinery when the statutory concealment/inaccurate-particulars basis is otherwise made out (paragraphs 19-30).

Elphinstone addressed a different additional-income-tax charging provision and the dividend-related statutory language there. The Court distinguished a charging provision's object and consequences from the penalty provision and found no conflict requiring a larger bench. Gold Coin's relevant holding was binding, not merely obiter. It did not rule that every unsuccessful depreciation claim automatically attracts penalty (paragraphs 31-34).

Source: [reported judgment / paragraphs Paragraphs 3-11 and 19-34; legal question, reasoning and distinction / PDF pages 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 / judicial text](#)

03 JUDICIAL DECISION

The legal nil/loss-income bar was answered in Revenue's favour by applying Gold Coin. Both Revenue appeals were allowed without costs. The Tribunal order, as confirmed by the High Court, was set aside and quashed. Crucially, paragraph 35 expressly left Revenue at liberty to proceed further against the assessee on merits in accordance with law. The disposal is not a fresh, unconditional Supreme Court finding that every penalty ingredient was proved or that the stated Rs.11,14,364 was finally payable (paragraphs 30 and 33-36).

Source: [reported judgment / paragraphs Paragraphs 30, 33-36 / PDF pages 13, 15, 16, 17 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the legal availability of penalty despite nil/loss income

Both Revenue appeals allowed; Tribunal order and High Court confirmation set aside; Revenue at liberty to proceed further on merits; no costs

Nil/loss-income legal objection finally rejected; further merits proceedings expressly preserved

Neither an automatic penalty for every disallowance nor a MAT/book-profit penalty determination. No larger-bench reference was made and no High Court remand on the legal question was ordered.

Source: [reported judgment / paragraphs Paragraphs 35-36; explicit further merits liberty / PDF pages 17 / judicial text](#)

05 AKHB REVIEW POINT

Use Saheli to reject a categorical claim that nil/loss income immunises an assessee from historical section 271(1)(c) penalty. Keep that legal proposition separate from proof of the penalty ingredients, explanations and defences, and the correct tax-sought-to-be-evaded computation. The decisive scope limit is the liberty in paragraph 35 to proceed on merits. This source is not a MAT decision: do not transfer it automatically to a book-profit-only tax situation or a different penalty regime. Gold Coin and Elphinstone are described as this judgment treats them; no independent complete review of either authority or comprehensive later-treatment audit is claimed.

Source: [reported judgment / paragraphs Paragraphs 9-18, 23-30 and 35-36 / PDF pages 7, 8, 11, 12, 13, 17 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS**Issue results**

1.

Issue: Nil or negative assessed income as an absolute penalty bar

Result: Rejected; historical Explanation 4(a) permits penalty notwithstanding that concealed income only reduces a loss

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: Paragraphs 23-30

Source role: judicial text

2.

Issue: Reconsideration of Gold Coin by a larger bench

Result: Declined; Elphinstone concerns a distinct charging provision and does not conflict

In whose favour: Revenue on this objection

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17

Paragraphs: Paragraphs 33-34

Source role: judicial text

3.

Issue: Final liability and quantum on remaining penalty merits

Result: Revenue expressly permitted to proceed further on merits in accordance with law; no unconditional fresh confirmation of the stated penalty amount

In whose favour: Left for lawful further merits proceedings

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 17

Paragraphs: Paragraphs 35-36

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

143(3); 72

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Deepak Verma, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 17 PDF pages; SHA-256

79ff1eb1e194f1a0d813ecbc2b24d13fade5d0a0506e517521650993ae1f6ce5. Original bytes preserved.

Judgment paragraphs 1-36 on physical pages 5-17 (SCR 751-763), fully read, including paragraph 7 judgment-writing guidance, all quoted passages and the final liberty to proceed on merits. Pages 1-4 and opening of page 5 are editorial/report material. No adjacent judgment.

[Open cited source rendition](#)

Paragraph 13 expressly identifies AY 1995-1996 for the narrated assessment. No separate companion appeal year is supplied.

The substantive issue is the historical section 271(1)(c)/Explanation 4(a) penalty consequence where returned/assessed income remains nil or a loss. Section 2(24) supplies the negative-income reasoning; sections 143(3), 260A and 72 are procedural or cited context. This judgment does not adjudicate minimum alternate tax under sections 115J, 115JA or 115JB.

The public-mirror acquisition URL could not be reopened by the web tool; preserved bytes, size and page count were checked. The reviewed source is the reported rendition, not a newly retrieved signed original.; The jurisdiction line gives Tax Appeal No.1905/2005, but paragraph 3 gives No.1904/2005. Images confirm both. As two civil appeals are before the Court, the discrepancy is disclosed without inventing an appeal mapping.; Paragraphs 23-24 print "inadequate particulars"; the note uses a descriptive reference to the statutory inaccurate-particulars limb rather than treating that printed word as a distinct legal test.; The source alternates descriptions of returned loss, returned nil and assessed nil. The note preserves the decisive proposition that nil/loss income alone does not bar penalty and does not invent a precise original returned-loss figure.; The headnote's broad "penalty leviable" formulation must be read with paragraph 35's express liberty to proceed further on merits. No automatic restoration of a final penalty quantum is represented.

Both appeals were treated as factually identical. Paragraph 2 narrates the civil appeal arising from SLP(C) No.5241/2007 without expressly mapping it to either new civil-appeal number. The reported jurisdiction identifies Gujarat Tax Appeal No.1905/2005, while judicial paragraph 3 identifies Tax Appeal No.1904/2005; both carry the date 8 August 2006. No one-to-one appeal mapping is inferred.

STATUTORY SCOPE

Historical Income-tax Act, 1961 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 present-law audit has been performed. Any source-checked comparison is expressly bounded.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 17](#)

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