

Commissioner of Income Tax, Gujarat v. M/s. Saurashtra Cement Ltd.

Civil Appeal No. 3702 of 2003

[2010] 8 SCR 404 | 2010-07-09

Whether Rs. 8.5 lakh received from the supplier for delay in delivery of additional cement plant and machinery was a capital receipt or taxable revenue compensation for loss of profits.

Two-judge bench | D. K. Jain, J. | C. K. Prasad, J.

Assessment years: 1974-75

Fact-specific historical capital receipt; later treatment unverified

This AY 1974-75 result concerns damages directly linked to delayed procurement of additional cement plant. It is not a blanket exemption for all damages or capital receipts. Subsequent statutory treatment, asset-cost consequences, later case law and any 2025 Act mapping require separate verification.

01 FACTS OF THE CASE

The assessee manufactured cement and contracted on 1 September 1967 with Walchandnagar Industries Ltd., Bombay, for an additional cement plant costing Rs. 1.70 crore, payable in four instalments. Clause 6 provided liquidated damages for delayed deliveries, except the stated force-majeure circumstance, at 0.5% of the price of the relevant machinery or equipment for each month of delay, without proof of actual loss. The total was capped at 5% of the plant and machinery price. Following delayed supply, the assessee received Rs. 8.5 lakh (paragraphs 3-4).

For AY 1974-75, the Assessing Officer included the amount in income and the Commissioner (Appeals) upheld that treatment. The Tribunal deleted the addition because the payment was intimately linked with procurement of the fixed asset and profit-making apparatus, rather than normal trading receipts; the machinery was yet to be installed. The Gujarat High Court answered the reference in the assessee's favour, and Revenue appealed. Of the three referred questions, the section 80J question was already concluded in the High Court on Revenue's concession under Elecon Engineering; only the two overlapping liquidated-damages questions survived (paragraphs 1-6).

Source: [reported judgment](#) / [paragraphs 1-6](#) / [PDF pages 3, 4, 5, 6](#) / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

Revenue argued that late commissioning prevented scheduled production and that the damages therefore compensated lost profits. The assessee maintained that the payment directly related to delayed delivery and installation of the capital asset. The Court treated this as a fact-sensitive characterisation issue: no single test determines whether every receipt is capital or revenue (paragraphs 8-11).

Drawing on *Rai Bahadur Jairam Valji* and *Kettlewell Bullen*, the Court distinguished compensation for an ordinary trading contract whose cancellation leaves the business structure and income source intact from compensation for impairment or loss of the profit-earning source. The authorities supplied considerations for a legal conclusion on the particular facts, rather than a universal exemption for contractual damages (paragraphs 11-12).

Clause 6 tied these damages to the price of machinery or equipment and the period of delay, without proof of actual damage. The computation did not measure lost profit from a particular part of the plant. The payment was directly and intimately linked to procurement of the cement plant and the delay in the coming into existence of the profit-making apparatus. The Court described this as compensation for sterilisation of the capital asset or profit-earning source, outside the ordinary profit-earning process, and classified the receipt as capital (paragraph 13).

Source: [reported judgment / paragraphs 8-13 / PDF pages 6, 7, 8, 9 / judicial text](#)

03 JUDICIAL DECISION

The Court agreed with the High Court on questions (i) and (ii) and held that the Rs. 8.5 lakh received from the supplier was a capital receipt. Revenue's Civil Appeal No. 3702 of 2003 was dismissed with no order as to costs. The section 80J question was not a surviving issue and was not independently redetermined (paragraphs 2 and 13-14).

Source: [reported judgment / paragraphs 2 / PDF pages 4 / judicial text](#); [reported judgment / paragraphs 13-14 / PDF pages 9 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeal dismissed with no order as to costs; High Court's capital-receipt conclusion upheld

Final capital-character determination of the particular Rs. 8.5 lakh delayed-delivery receipt

Decision concerns compensation tied to delayed procurement of the additional cement plant, not every liquidated-damages payment or all capital receipts. Section 80J was already concluded below; no asset-cost or depreciation adjustment issue was decided.

Source: [reported judgment / paragraphs 13-14 / PDF pages 9 / judicial text](#)

05 AKHB REVIEW POINT

Examine the contract, the stage of the asset's acquisition and the function of the damages. Here an existing cement manufacturer was obtaining an additional plant; the payment concerned delayed creation of that profit-making apparatus. The machinery-price formula, monthly delay rate, absence of proof of actual loss and lack of a lost-profit calculation supported the capital link. None is an automatic substitute for identifying what the particular payment compensates.

Do not convert this result into a rule that every payment labelled liquidated damages, every delay-related receipt, or every capital receipt is exempt. Damages replacing trading profits or arising from an ordinary business contract require their own analysis. This judgment does not decide whether a receipt reduces asset cost or affects depreciation. It also supplies no fresh section 80J holding.

The result belongs to AY 1974-75 and the issue actually decided. Later statutory treatment, subsequent judicial developments and any Income-tax Act, 2025 application have not been verified; check those independently before relying on the historical capital classification for a current return.

Source: [reported judgment / paragraphs 2-4 / PDF pages 4, 5 / judicial text](#); [reported judgment / paragraphs 10-14 / PDF pages 7, 8, 9 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Liquidated damages under clause 6 for delayed delivery of additional cement plant

Result: Rs. 8.5 lakh was a capital receipt tied to sterilisation of the profit-earning source, rather than an ordinary trading receipt; Revenue appeal dismissed

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: 13-14

Source role: judicial text

2.

Issue: Separate section 80J machinery/capital-employed reference question

Result: Already conceded before High Court as governed by Elecon Engineering; only questions (i) and (ii) survived for Supreme Court consideration

In whose favour: Assessee below; no fresh merits determination here

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: 1-2

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

256(1); 80J

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 256(1)

Role: procedural reference route

Basis: Paragraph 1 records the questions referred by the Tribunal to the High Court.

2.

Act: Income-tax Act, 1961

Section: 80J

Role: separate question already concluded below; not a surviving Supreme Court merits issue

Basis: Paragraphs 1-2 state that Revenue had conceded the machinery/capital-employed question in the High Court as governed by Elecon Engineering.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

D. K. Jain, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

74e84a02b89e3602e44645caac3fe0bfbf7d0c6dab4e3a031c3f99a3ccaae74b. Original bytes preserved.

Judgment paragraphs 1-14 begin on physical page 3 (SCR 406) and end on page 9 (SCR 412). Pages 1-2 and the first part of page 3 are editorial headnote/reference and identity material.

[Open cited source rendition](#)

Reported citation verified on the source cover. No neutral citation inferred from catalogue metadata.

Paragraph 3 identifies AY 1974-75; the relevant previous year ended on 30 June 1973.

The surviving merits question is capital versus revenue character of the liquidated damages; the Court does not identify a separately numbered charging provision for that issue. Section 256(1) is the reference procedure. The section 80J question was already conceded before the High Court as covered by Elecon Engineering and did not survive for determination here.

The preserved reported rendition is the source; no separately retrieved signed original or original-PDF hash is claimed.; Editorial headnote material on physical page 2 has noisy extraction and is not used as a substitute for the complete judicial text on pages 3-9.; The wording of reference question (i) uses a negative formulation while the introduction says the questions were answered in the affirmative; the note follows the unambiguous substantive conclusion in paragraph 13 instead of inferring a contrary outcome from that phrasing.; Section 80J appears in a separate referred question expressly removed from the surviving dispute in paragraph 2. It is context, not a newly decided deduction ratio.; The corpus catalogue's modern-looking INSC identifier is not promoted to a court-issued neutral citation.

STATUTORY SCOPE

Historical assessment-year and statutory setting only; no automatic mapping to the Income-tax Act, 2025 and no present-law tax exemption certification.

LATER TREATMENT

Source checked 2026-10-04. No later-treatment or statutory-update search is claimed. Discussion of Rai Bahadur Jairam Valji, Kettlewell Bullen, Elecon Engineering and E.I.D. Parry is limited to their treatment in the fully read Saurashtra judgment; those underlying authorities were not separately reread in this batch.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 9](#)

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