

M/s. Techno Shares & Stocks Ltd. v. The Commissioner of Income Tax IV

Civil Appeal No. 7780 of 2010 and connected proceedings (full list below)

[2010] 11 SCR 437 | 2010-09-09

Whether the rights attached to BSE membership for a non-defaulting continuing member under the then Rules and Bye-laws were an owned business-use intangible asset qualifying under section 32(1)(ii).

32(1)(ii) | 32(1) Explanation 3

Two-judge bench | S.H. Kapadia, CJI | K.S. Panicker Radhakrishnan, J.

Assessment years: 1999-2000, 2000-01, 2001-02, 2002-03

Historical BSE membership right; no universal licence rule

Techno is expressly confined to BSE membership rights under the Rules and Bye-laws for the relevant years, with lead AYs 1999-2000 to 2002-03. The historical section 32(1)(ii) covered qualifying intangible assets acquired on or after 1 April 1998 and owned and used for business. The Court did not make every licence or commercial right depreciable. Check the precise asset, governing rules, statutory version and later treatment. No current-law or 2025-Act certification is supplied.

[paragraphs Question \(a\), final disposition and date; unnumbered order / PDF pages 1, 3 / judicial text](#)

01 FACTS OF THE CASE

The lead company's case concerned AYs 1999-2000 through 2002-03. Its AY 1999-2000 return declared a loss of Rs.10,77,276 and was processed under section 143(1). The assessment was reopened under sections 147/148, principally over depreciation of Rs.23,65,000 claimed on the BSE membership card. The Assessing Officer treated membership as a non-transferable personal permission without ownership or ordinary wear and tear, and the Commissioner (Appeals) agreed. The Tribunal allowed depreciation, but the Bombay High Court reversed, treating the licence and similar-right language as restricted by the listed intellectual-property rights (paragraphs 3-5).

The lead membership cost was Rs.95 lakhs; the HDFC Securities companion example involved Rs.2.80 crores. The assessee relied on the right to trade and access the exchange. The Department disputed asset character and ownership. The Court examined the BSE Rules and Bye-laws applicable in the relevant years (paragraphs 8-15).

Source: [reported judgment / paragraphs 3-5 and 12-13 / PDF pages 4, 5, 6, 16 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 32(1)(ii), inserted by Finance (No.2) Act, 1998 with effect from 1 April 1999, covered the specified intangible assets acquired on or after 1 April 1998, owned wholly or partly by the assessee and used for business or profession. The Court read that text and Explanation 3 with the actual BSE membership regime, rather than deciding asset character from the label personal privilege alone (paragraphs 3, 8 and 12).

Membership permitted trading and market access. The Rules restricted alienation and made nomination conditional, but a non-defaulting continuing member retained a valuable membership/nomination right until the events causing it to vest in the Exchange. The Court treated this owned, business-used market-access right as a licence or a licence-like business or commercial right within the statutory class. Its economic and monetary value and the member's ability to exercise it mattered (paragraphs 15-19).

Vinay Bubna and Stock Exchange, Ahmedabad concerned rights after default or demise and vesting in the exchange. The Court explained why those decisions did not defeat depreciation for a non-defaulting continuing member. It expressly confined the result to the membership rights under the BSE Rules and Bye-laws during the relevant years, and warned that every business or commercial right is not necessarily a licence or franchise under section 32(1)(ii) (paragraphs 20-24).

Source: [reported judgment / paragraphs 8-24, including full statutory and BSE-rule extracts / PDF pages 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 / judicial text](#)

03 JUDICIAL DECISION

On the facts and the historical BSE regime examined, depreciation was allowable on membership-card cost under section 32(1)(ii). The impugned Bombay High Court judgments were set aside and the appeals filed by the nominated non-defaulting continuing members were allowed without costs. The express asset- and period-specific limitation remained part of the holding. The report's additional 35600/2009 reference is not treated as an appeal allowed by this operative direction; its later separate disposition is recorded below (paragraphs 24-25).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee appellants who were nominated non-defaulting continuing BSE members

Impugned Bombay High Court judgments set aside; appeals of nominated non-defaulting continuing members allowed; no costs

Final merits ruling on depreciation of the historical BSE membership right

Applies to the BSE Rules and Bye-laws and years examined, with ownership, business use and statutory acquisition-date requirements. Does not decide every licence or commercial right. Connected SLP(C) No.35600/2009 had a separate 2012 disposition and is not counted as an assessee appeal allowed here.

Source: [reported judgment / paragraphs Reported list; 24-25 / PDF pages 3, 21, 22 / reported metadata and judicial text; third party rendition of judicial order / paragraphs Caption and closing disposition of separately decided CA5961/2012 / PDF pages 1, 3 / judicial text](#)

05 AKHB REVIEW POINT

Analyse the precise bundle of rights, the governing rules for the relevant year, ownership, business use and acquisition date. Techno does not permit depreciation merely because an expenditure has commercial value or a permission is called a licence. Distinguish a continuing member's market-access right from rights after default, death or vesting, and do not assume the historical BSE regime survives unchanged.

The later Smifs Securities order of 22 August 2012 was read in the stated three-page rendition. For question (a), Revenue conceded that Techno covered stock-exchange-membership depreciation in the assessee's favour, and the Court dismissed Revenue's appeal. This is one bounded application, not a comprehensive treatment check. Its separate goodwill question is not used to generalise Techno or state current goodwill eligibility. The same order resolves the docket identity of the report's additional 35600/2009 reference.

Source: [reported judgment / paragraphs 8, 11-19 and 24-25 / PDF pages 7, 8, 15, 16, 17, 18, 21, 22 / judicial text; third party rendition of judicial order / paragraphs Caption, question \(a\), final disposition and date / PDF pages 1, 3 / judicial text](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 7780 of 2010 / Civil Appeal No. 7781 of 2010 / Civil Appeal No. 7782 of 2010 / Civil Appeal No. 7783 of 2010 / Civil Appeal No. 7784 of 2010 / Civil Appeal No. 7785 of 2010 / Civil Appeal No. 7786 of 2010 / Civil Appeal No. 7787 of 2010 / Civil Appeal No. 7788 of 2010 / Civil Appeal No. 7789 of 2010 / Civil Appeal No. 7790 of 2010 / Civil Appeal No. 7791 of 2010 / Civil Appeal No. 7792 of 2010 / Civil Appeal No. 7793 of 2010 / Civil Appeal No. 7794 of 2010 / Civil Appeal No. 7795 of 2010 / Civil Appeal No. 7796 of 2010 / Civil Appeal No. 7797 of 2010 / Civil Appeal No. 7798 of 2010 / Civil Appeal No. 7799 of 2010 / Civil Appeal No. 7800 of 2010 / Civil Appeal No. 7801 of 2010 / Civil Appeal No. 7802 of 2010 / Civil Appeal No. 7803 of 2010 / Civil Appeal No. 7804 of 2010 / Civil Appeal No. 7805 of 2010 / Civil Appeal No. 7806 of 2010 / Civil Appeal No. 7807 of 2010 / Civil Appeal No. 7808 of 2010 / Civil Appeal No. 7809 of 2010 / Civil Appeal No. 7810 of 2010 / Civil Appeal No. 7811 of 2010 / Civil Appeal No. 7812 of 2010 / Civil Appeal No. 7813 of 2010 / Civil Appeal No. 7814 of 2010 / Civil Appeal No. 7815 of 2010 / Civil Appeal No. 7816 of 2010 / Civil Appeal No. 7817 of 2010 / Civil Appeal No. 7818 of 2010 / Civil Appeal No. 7819 of 2010 / Civil Appeal No. 7820 of 2010 / Civil Appeal No. 7821 of 2010 / Civil Appeal No. 7822 of 2010 / Civil Appeal No. 7823 of 2010 / Civil Appeal No. 7824 of 2010 / Civil Appeal No. 7825 of 2010 / Civil Appeal No. 7826 of 2010 / Civil Appeal No. 7827 of 2010 / Civil Appeal No. 7828 of 2010 / Civil Appeal No. 7829 of 2010 / Civil Appeal No. 7830 of 2010 / Civil Appeal No. 7831 of 2010 / Civil Appeal No. 7832 of 2010 / Civil Appeal No. 7833 of 2010 / Civil Appeal No. 7834 of 2010 / Civil Appeal No. 7835 of 2010 / Civil Appeal No. 7836 of 2010 / Civil Appeal No. 7837 of 2010 / Civil Appeal No. 7838 of 2010 / Civil Appeal No. 7839 of 2010 / Civil Appeal No. 7840 of 2010 / Civil Appeal No. 7841 of 2010 / Civil Appeal No. 7842 of 2010 / Civil Appeal No. 7843 of 2010 / Civil Appeal No. 7844 of 2010 / Civil Appeal No. 7845 of 2010 / Civil Appeal No. 7846 of 2010 / Civil Appeal No. 7847 of 2010 / Civil Appeal No. 7848 of 2010 / Civil Appeal No. 7849 of 2010 / Civil Appeal No. 7850 of 2010 / Civil Appeal No. 7851 of 2010 / Civil Appeal No. 7852 of 2010 / Civil Appeal No. 7853 of 2010 / Civil Appeal No. 7854 of 2010 / Civil Appeal No. 7855 of 2010 / Civil Appeal No. 7856 of 2010 / Civil Appeal No. 7857 of 2010 / Civil Appeal No. 7858 of 2010 / Civil Appeal No. 7859 of 2010 / Civil Appeal No. 7860 of 2010 / Civil Appeal No. 7861 of 2010 / Civil Appeal No. 7862 of 2010 / Civil Appeal No. 7863 of 2010 / Civil Appeal No. 7864 of 2010 / Civil Appeal No. 7865 of 2010 / Civil Appeal No. 7866 of 2010 / Civil Appeal No. 7867 of 2010 / Civil Appeal No. 7868 of 2010 / Civil Appeal No. 7869 of 2010 / Civil Appeal No. 7870 of 2010 / Civil Appeal No. 7871 of 2010 / Civil Appeal No. 7872 of 2010 / Civil Appeal No. 7873 of 2010 / Civil Appeal No. 7874 of 2010 / Civil Appeal No. 7875 of 2010 / Civil Appeal No. 7876 of 2010 / Civil Appeal No. 7877 of 2010 / Civil Appeal No. 7878 of 2010 / Civil Appeal No. 7879 of 2010 / Civil Appeal No. 7880 of 2010 / Civil Appeal No. 7881 of 2010 / Civil Appeal No. 7882 of 2010 / Civil Appeal No. 7883 of 2010 / Civil Appeal No. 7884 of 2010 / Civil Appeal No. 7885 of 2010 / Civil Appeal No. 7886 of 2010 / Civil Appeal No. 7887 of 2010 / Civil Appeal No. 7888 of 2010 / Civil Appeal No. 7889 of 2010 / Civil Appeal No. 7890 of 2010 / Civil Appeal No. 7891 of 2010 / Civil Appeal No. 7892 of 2010 / Special Leave Petition (Civil) No.35600 of 2009

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Character and ownership of the continuing BSE membership right

Result: A licence or licence-like commercial right owned and used for business by the non-defaulting continuing member in the examined regime

In whose favour: Assessee appellants

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 16; 17; 18

Paragraphs: 12-19

Source role: judicial text

2.

Issue: Effect of prior cases concerning default/death and exchange vesting

Result: Those post-vesting cases did not defeat the continuing member's qualifying asset character

In whose favour: Assessee appellants

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 18; 19; 20; 21

Paragraphs: 20-23

Source role: judicial text

3.

Issue: Extent of depreciation holding and operative relief

Result: Historical BSE-specific depreciation allowed; High Court judgments set aside and member appeals allowed without costs

In whose favour: Assessee appellants, within express limits

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 21; 22

Paragraphs: 24-25

Source role: judicial text

4.

Issue: Connected reference No.35600/2009

Result: Preserved as SLP(C) No.35600/2009; the later Smifs order identifies its conversion to CA5961/2012 and separate dismissal of Revenue's appeal

In whose favour: No 2010 allowance inferred from the connected-list reference

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: Connected list

Source role: reported metadata

2.

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered caption, question (a), final disposition and date

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(14); 143(1); 147; 148; 226(3); 281B

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.H. Kapadia, CJI

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

VERIFIED RELATIONSHIPS BETWEEN SPECIFIED JUDGMENTS

1.

Earlier case id: sc-2010-09-09-techno-shares-stocks

Relationship: applied on revenue concession for stock exchange membership depreciation

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Question (a), final disposition and date; unnumbered order

Source role: judicial text

Scope limit: One later order in a specifically identified third-party rendition. Only membership-card application and docket identity support this note; no current goodwill-law conclusion or comprehensive subsequent-treatment verification.

Later case title: Commissioner of Income Tax, Kolkata v. Smifs Securities Ltd.

Later decision date: 2012-08-22

Later source asset id: Not stated in the reviewed record

Later case note link verified: False

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Check: Consolidated corpus FTS searches for Techno and Smifs

Result: No complete Smifs source was present under that title; targeted public retrieval was therefore used. Search hits alone were not treated as later holdings.

2.

Check: Smifs Securities, CA5961/2012 from SLP(C)35600/2009, order dated 22 August 2012; all three pages read

Result: Question (a) records Revenue's concession that Techno controls in the assessee's favour; the separate 2012 civil appeal was dismissed. Complete future treatment remains not verified.

REPORTED APPEAL GROUPS

Civil Appeal Nos. 7780-7781 of 2010; Civil Appeal No. 7782 of 2010; Civil Appeal Nos. 7783-7785 of 2010; Civil Appeal Nos. 7786-7788 of 2010; Civil Appeal No. 7789 of 2010; Civil Appeal Nos. 7790-7791 of 2010; Civil Appeal No. 7792 of 2010; Civil Appeal Nos. 7793-7794 of 2010; Civil Appeal Nos. 7795-7798 of 2010; Civil Appeal Nos. 7799-7802 of 2010; Civil Appeal Nos. 7803-7804 of 2010; Civil Appeal No. 7805 of 2010; Civil Appeal Nos. 7806-7809 of 2010; Civil Appeal Nos. 7810-7812 of 2010; Civil Appeal Nos. 7813-7814 of 2010; Civil Appeal Nos. 7815-7816 of 2010; Civil Appeal Nos. 7817-7818 of 2010; Civil Appeal Nos. 7819-7822 of 2010; Civil Appeal Nos. 7823-7824 of 2010; Civil Appeal Nos. 7825-7827 of 2010; Civil Appeal No. 7828 of 2010; Civil Appeal Nos. 7829-7830 of 2010; Civil Appeal No. 7831 of 2010; Civil Appeal No. 7832 of 2010; Civil Appeal Nos. 7833-7835 of 2010; Civil Appeal Nos. 7836-7839 of 2010; Civil Appeal Nos. 7840-7842 of 2010; Civil Appeal Nos. 7843-7844 of 2010; Civil Appeal No. 7845 of 2010; Civil Appeal No. 7846 of 2010; Civil Appeal Nos. 7847-7848 of 2010; Civil Appeal No. 7849 of 2010; Civil Appeal No. 7850 of 2010; Civil Appeal No. 7851 of 2010; Civil Appeal No. 7852 of 2010; Civil Appeal Nos. 7853-7855 of 2010; Civil Appeal Nos. 7856-7858 of 2010; Civil Appeal Nos. 7859-7861 of 2010; Civil Appeal Nos. 7862-7864 of 2010; Civil Appeal Nos. 7865-7866 of 2010; Civil Appeal Nos. 7867-7870 of 2010; Civil Appeal No. 7871 of 2010; Civil Appeal No. 7872 of 2010; Civil Appeal Nos. 7873-7875 of 2010; Civil Appeal Nos. 7876-7878 of 2010; Civil Appeal No. 7879 of 2010; Civil Appeal No. 7880 of 2010; Civil Appeal Nos. 7881-7882 of 2010; Civil Appeal Nos. 7883-7884 of 2010; Civil Appeal Nos. 7885-7886 of 2010; Civil Appeal Nos. 7887-7889 of 2010; Civil Appeal No. 7890 of 2010; Civil Appeal Nos. 7891-7892 of 2010; 35600 of 2009 (as printed at end of connected list)

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 22 PDF pages; SHA-256

4cb3cd7503737db1fa0649fa48f4fc8a926ca6d146fcc01bedb2ad35813c367d. Original bytes preserved.

Judgment paragraphs 1-25, physical pages 4-22 (SCR 440-458), read in full including all quoted BSE Rules, Bye-law 400, prior-case discussion, express limitation and operative conclusion. Physical pages 1-3 and opening of page 4 are editorial/report material. No adjacent judgment.

Open cited source rendition

The four years are expressly stated for Techno, the lead matter, in paragraph 3. Separate companion years are not supplied or inferred. Smifs' later AY 2003-04 belongs to its separately decided 2012 order, not an additional year decided in this note.

Depreciation of the historical BSE membership right is the merits issue. Reopening sections are procedural facts; the attachment and garnishee provisions arise in the discussion of an earlier stock-exchange decision. The BSE Rules and Bye-laws are those operative during the relevant assessment years, not a finding about the present exchange structure.

The main source is an unchanged public-mirror eSCR report; its preserved acquisition URL and hash apply to that rendition, not a separately retrieved signed original.; At physical page 5 paragraph 4, the first Tribunal-summary sentence says not entitled to depreciation, while the next sentence and operative paragraph 25 say entitled. This printed inconsistency was visually confirmed. The procedural account follows the latter text, the Department's High Court appeal and paragraph 25, rather than the contradictory phrase.; The report's connected list appends 35600 of 2009 beneath civil-appeal groups. The later Smifs order identifies this as SLP(C)35600/2009 and records a separate 2012 disposition; the 2010 allowed-appeals result is not assigned to it.; All 113 numbered 2010 civil appeals are retained, with the original grouped list also preserved. The report does not provide each companion's assessment years or SLP-to-civil-appeal mapping.; The Smifs hash and page pins identify the three-page ITATonline re-typeset rendition. It is not the four-page Bar & Bench rendition or an official signed-original download; those hashes/pages must not be interchanged.; Historical BSE Rules, rather than current exchange arrangements, delimit the holding. Section 32 statutory wording and later legislative changes must be checked for any different year or asset.

The reported civil-appeal groups cover Nos.7780-7892 of 2010. Physical page 3 additionally lists 35600 of 2009 without a fresh proceeding-type label. That number is identified in the later Smifs Securities order as SLP(C) No.35600/2009, which became CA No.5961/2012 and was separately dismissed on 22 August 2012. It is preserved here as a connected reference, not incorrectly included among the assessee appeals allowed in 2010. Paragraph 12 separately names HDFC Securities' appeals arising from SLP(C) Nos.5656-5657/2010; no individual matching to the numbered civil appeals is invented.

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. The actual bounded source checks below do not establish absence of later treatment.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 22](#)

SHA-256: 4cb3cd7503737db1fa0649fa48f4fc8a926ca6d146fcc01bedb2ad35813c367d

[third party rendition of judicial order - PDF pages: 3](#)

SHA-256: 13ce974c67560148bde349267562cbef98f165db280745d64eac14bf9dd8eaa6

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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