

Guffic Chem P. Ltd. etc. v. C.I.T., Belgaum & Anr.

Civil Appeal No. 2522 of 2011 / Civil Appeal No. 2523 of 2011 (arising out of SLP (C) No. 222 of 2011)

[2011] 3 SCR 899 | 2011-03-16

Whether the Rs. 50 lakh received for a restrictive non-competition covenant was a taxable revenue receipt for AY 1997-98, and whether the later section 28(va) amendment could retrospectively change that historical treatment.

28(va)

Three-judge bench | S. H. Kapadia, CJI | K. S. Panicker Radhakrishnan, J. | Swatanter Kumar, J.

Assessment years: 1997-98

Historical non-compete receipt; section 28(va) applies from 1 April 2003

The lead holding concerns AY 1997-98. Guffic expressly treats Finance Act, 2002's section 28(va) insertion, effective from 1 April 2003, as amendatory and prospective. It does not exempt present-day non-compete receipts. Check the applicable year's full statutory text, exceptions and later treatment separately.

[paragraphs 1 \(AY 1995-96\) / PDF pages 5 / judicial text](#); [paragraphs 19-20 \(Guffic discussion and express following\) / PDF pages 21, 22, 23 / judicial text](#)

01 FACTS OF THE CASE

For AY 1997-98, the assessee, part of the Guffic Group and engaged in manufacturing, selling and distributing pharmaceutical and medicinal preparations, received Rs. 50 lakh from Ranbaxy under an agreement dated 31 March 1997. The arrangement involved transfer of trademarks and a restriction against directly or indirectly carrying on the specified competing business. The restrictive period was 20 years and the territory was India and the rest of the world. The payment in dispute was found to be consideration for that negative covenant and the resulting loss of a source of income (paragraph 3).

The Assessing Officer had not disputed that the Rs. 50 lakh was non-competition consideration, but taxed the receipt. The Commissioner (Appeals) held it capital and non-taxable for the relevant year, and the Tribunal affirmed. The Karnataka High Court reversed, relying on Gillanders Arbuthnot; the assessee appealed. A separate Revenue appeal concerned the Delhi High Court's decision in CIT v. Mandalay Investment Pvt. Ltd.; paragraph 9 disposes of that appeal without narrating its separate transaction facts (paragraphs 4 and 9).

Source: [reported judgment / paragraphs 3-4 / PDF pages 4, 5 / judicial text](#); [reported judgment / paragraphs 9 / PDF pages 7 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished compensation for loss of an agency in the ordinary course of business from consideration attributable to a negative or restrictive covenant. Its discussion of *Gillanders Arbuthnot* treated the former trading receipt and the latter capital receipt as different categories. It also referred to *Rai Bahadur Jairam Valji* for the ordinary-course contract-termination principle (paragraphs 5-7).

Applying that distinction, the Court held that the Karnataka High Court had misread *Gillanders* and improperly disturbed concurrent findings. Revenue had not challenged the genuineness of the transaction. Both the Commissioner (Appeals) and Tribunal had found that the agreement with *Ranbaxy* entailed loss of the assessee's source of business and that the payment was received for the negative covenant. The result therefore depended on the actual character and accepted facts of this payment, rather than its non-compete label alone (paragraph 7).

The Court separately addressed the statutory time limit: Finance Act, 2002 introduced section 28(va) with effect from 1 April 2003 to tax such receipts. It held that this amendment was amendatory, not clarificatory, and did not retrospectively create liability for the relevant historical assessment year. Its recognition that legislation could specifically tax a receipt otherwise regarded as capital is essential to the holding; this judgment does not supply a present-day exemption for non-compete fees (paragraph 7).

Source: [reported judgment / paragraphs 5-7 / PDF pages 5, 6, 7 / judicial text](#)

03 JUDICIAL DECISION

Civil Appeal No. 2522 of 2011 was allowed: the Karnataka High Court judgment dated 29 October 2009 was set aside and the Tribunal's order restored, with no order as to costs. The Rs. 50 lakh restrictive-covenant receipt retained its capital, non-taxable treatment for AY 1997-98. In Civil Appeal No. 2523 of 2011, the Court applied the preceding reasons, affirmed the Delhi High Court's *Mandalay Investment* judgment dated 29 July 2009 and dismissed Revenue's appeal, also with no order as to costs (paragraphs 8-9).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee in both appeal groups

Guffic assessee appeal allowed, Karnataka High Court judgment set aside and Tribunal order restored; Mandalay Revenue appeal dismissed and Delhi High Court judgment affirmed; no order as to costs in either appeal

Final capital-character and historical tax-treatment determination; prospective operation of section 28(va) expressly decided

The lead receipt relates to AY 1997-98. The companion appeal's separate assessment year and transaction facts are not stated. No present-day exemption for non-compete fees or universal rule for every agency-termination receipt is certified.

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

05 AKHB REVIEW POINT

First identify what the receipt replaces or restricts: ordinary trading earnings or a source of business. Read the actual covenant, duration, territory, consideration and accepted factual findings; do not extend the result to every termination payment, trademark transfer receipt, or payment merely labelled non-compete. The note concerns the disputed covenant consideration, not an independent adjudication of all trademark-transfer tax consequences.

Keep AY 1997-98 and the 1 April 2003 commencement of section 28(va) prominent. A capital classification does not itself establish non-taxability under a later specific charging provision. The Court's actual holding is that the 2002 amendment was prospective and amendatory, not merely declaratory of a prior charge.

In a bounded follow-on check, Shiv Raj Gupta (22 July 2020), itself concerning AY 1995-96, expressly followed Guffic Chem in paragraphs 19-20 and reproduced the statutory commencement discussion. That later historical-year application does not make Guffic a present-law non-compete exemption. Comprehensive subsequent treatment, current statutory exceptions and any Income-tax Act, 2025 application remain unverified.

Source: [reported judgment / paragraphs 3-7 / PDF pages 4, 5, 6, 7 / judicial text](#); [reported judgment / paragraphs 1 / PDF pages 5 / judicial text](#); [reported judgment / paragraphs 19-20 / PDF pages 21, 22, 23 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Rs. 50 lakh restrictive-covenant receipt in Guffic, AY 1997-98

Result: Capital receipt; Tribunal's non-taxable treatment restored

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: 7-8

Source role: judicial text

2.

Issue: Section 28(va) amendment

Result: Amendatory, not clarificatory; effective from 1 April 2003 and not retrospectively applicable to the historical year

In whose favour: Assessee for AY 1997-98

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: 7

Source role: judicial text

3.

Issue: Mandalay Investment companion Revenue appeal

Result: Delhi High Court judgment affirmed; Revenue appeal dismissed with no order as to costs

In whose favour: Assessee in companion appeal

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: 9

Source role: judicial text

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 28(va)

Role: prospective amendment holding

Basis: Paragraph 7 holds the Finance Act, 2002 change effective from 1 April 2003 to be amendatory, not clarificatory; it cannot impose liability for AY 1997-98 retrospectively.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S. H. Kapadia, CJI

CONNECTED MATTERS AND THEIR SCOPE

1.

Case number: Civil Appeal No. 2522 of 2011

Party: Guffic Chem P. Ltd.

High court order: Karnataka High Court, Circuit Bench at Dharwad, ITA No. 985 of 2006, dated 29 October 2009

Assessment year: 1997-98

Disposition: Assessee appeal allowed; High Court judgment set aside; Tribunal order restored; no order as to costs

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 3; 7

Paragraphs: Jurisdiction block; paragraph 8

Source role: judicial text

2.

Case number: Civil Appeal No. 2523 of 2011 (arising out of SLP (C) No. 222 of 2011)

Party: CIT v. Mandalay Investment Pvt. Ltd.

High court order: Delhi High Court, ITA No. 728 of 2009, dated 29 July 2009

Assessment year: Not stated in the reviewed record

Disposition: Revenue appeal dismissed; Delhi High Court judgment affirmed for the preceding reasons; no order as to costs

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: 9

Source role: judicial text

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

VERIFIED RELATIONSHIPS BETWEEN SPECIFIED JUDGMENTS

1.

Earlier case id: sc-2011-03-16-guffic-chem

Later case id: sc-2020-07-22-shivraj

Relationship: expressly followed for another pre 1 april 2003 assessment year

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: 1 (AY 1995-96)

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 21; 22; 23

Paragraphs: 19-20 (Guffic discussion and express following)

Source role: judicial text

Scope limit: Limited historical non-compete relationship only. This is not a comprehensive later-treatment clearance or current-law exemption.

SOURCE & VERIFICATION

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

Identified source rendition: 7 PDF pages; SHA-256

d574641709bd4a5e486cf5261d8c1084e38f00d115be53c2210e4fe86636f317. Original bytes preserved.

Judgment paragraphs 1-9 begin on physical page 3 (SCR 901) and end on page 7 (SCR 905). Pages 1-2 and the first part of page 3 are editorial headnote/reference and identity material. Paragraph 9 is the separate Mandalay appeal disposition.

[Open cited source rendition](#)

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

Paragraph 3 expressly identifies AY 1997-98 for Guffic Chem. Paragraph 9 gives no assessment year or separate transaction amount for Mandalay Investment; neither is inferred.

Section 28(va) is examined as the later prospective charging amendment, introduced by Finance Act, 2002 with effect from 1 April 2003. It was not the operative charging provision for the lead appeal's AY 1997-98. Section 28(ii)(a) is not independently identified or decided in this source and is not imported from the later Shiv Raj Gupta judgment.

The preserved reported rendition is the source; no separately retrieved signed original or original-PDF hash is claimed.; The editorial opening describes an appeal by Revenue although Guffic's own appeal was by the assessee; paragraph 9 is the separate Revenue appeal. Judicial paragraphs 4 and 8-9 control the party-specific outcomes, and the final editorial label Appeal allowed does not cover both appeals.; The headnote's opening uses mandatory, but the judicial text at paragraph 7 expressly says amendatory and not clarificatory. The latter wording controls.; Paragraph 7 uses till the assessment year 2003-04 alongside repeated express commencement from 1 April 2003. This note uses the actual AY 1997-98 and explicit commencement date; it does not infer an extra exempt assessment year.; The paragraphs quoted in Shiv Raj Gupta use different numbering from this preserved SCR rendition of Guffic. Guffic pinpoints in this note use its own paragraphs 1-9, not the later quotation's numbering.; 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. Limited follow-on relationship verified by reading Shiv Raj Gupta paragraph 1 and paragraphs 19-20 in the preserved reported source. No comprehensive later-treatment or current-law audit has been performed.

IDENTIFIED SOURCE LINKS

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

SHA-256: d574641709bd4a5e486cf5261d8c1084e38f00d115be53c2210e4fe86636f317

[reported judgment - PDF pages: 23](#)

SHA-256: ff7e8c365b9f61a47e098a63f2e5f6a158ccd52c7f81325a01665e74385d13df

[Related note: Shiv Raj Gupta v. Commissioner of Income-Tax, Delhi-IV](#)

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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