

M/s ACG Associated Capsules Pvt. Ltd. (formerly M/s Associated Capsules Pvt. Ltd.) v. The Commissioner of Income Tax, Central-IV, Mumbai

Civil Appeal No. 1914 of 2012 / Civil Appeal No. 4534 of 2008

[2012] 2 SCR 401 | 2012-02-08

Whether the 90% exclusion under Explanation (baa) to section 80HHC applies to gross rent/interest or only the net amount actually included in computed business profits, and whether the entire DEPB sale receipt is transfer profit under section 28(iiid).

80HHC | 80HHC Explanation (baa) | 28(iiid)

Three-judge bench | S. H. Kapadia, C.J.I. | A. K. Patnaik, J. | Swatanter Kumar, J.

Assessment years: 2003-04

Net amounts actually included; two different appeal remedies

The 90% exclusion applies to the relevant net receipt included in business profits after allowable expenses, not an unrestricted expense offset. ACG was remanded for rent/interest computation; Revenue's Bharat Rasayan appeal was dismissed. The DEPB issue follows Topman. No final deduction amount, present-day section 80HHC entitlement, comprehensive later-treatment conclusion or Income-tax Act 2025 mapping is certified.

01 FACTS OF THE CASE

In its AY 2003-04 return ACG claimed a section 80HHC deduction of Rs. 34,44,24,827. The Assessing Officer excluded 90% of gross interest and gross rent and restricted the deduction to Rs. 2,36,25,053; the Commissioner (Appeals) upheld that approach. The Tribunal remanded for examination of the link between interest expense and income and whether staff rent came from the same flats for which ACG paid rent. The Bombay High Court directed the officer to follow Asian Star, which used gross interest. The High Court also treated the whole DEPB sale amount as transfer profit following Kalpataru Colours and Chemicals (ACG paragraphs 2-3).

The separately numbered companion concerned Bharat Rasayan Limited. It claimed a section 80HHC deduction of Rs. 72,76,405; the officer excluded 90% of gross interest of Rs. 50,26,284. The Tribunal accepted the net-interest approach and remitted for factual examination. The Delhi High Court, following Shri Ram Honda Power Equip, sustained that order; Revenue appealed (Bharat Rasayan paragraphs 1-2).

Source: [reported judgment / paragraphs ACG 2-3 / PDF pages 5, 6, 7 / judicial text](#); [reported judgment / paragraphs Bharat Rasayan 1-2 / PDF pages 14, 15 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court first applied its same-day Topman decision: profit on transfer of DEPB was the sale value less face value, rather than the entire sale proceeds (ACG paragraph 2).

For the rent/interest issue, it started with the words of Explanation (baa). Business profits must first be computed under sections 28 to 44D, including taxable business receipts and deducting expenses legally allowable under sections 30 to 44D. The 90% reduction then applies to the relevant receipt amount actually included in those computed profits. A quantum already removed by an allowable expense cannot be excluded again as though the gross receipt remained in business profits (paragraphs 8-10).

Distributors (Baroda), construing section 80M, supported reading the words about included income as referring both to its kind and to its quantum. Accordingly, where rent or interest was taxable as business income, the relevant Explanation-(baa) exclusion was 90% of the net rent or net interest included in the computed business profits. The statutory requirement of an allowable expense remained; the Court did not authorise arbitrary netting of unrelated outgoings (paragraphs 11-12).

The Court agreed with Shri Ram Honda and rejected the contrary gross-receipts reasoning in Asian Star. K. Ravindranathan Nair concerned processing charges and their treatment in the turnover/profit calculation; it had not decided gross versus net income for this purpose. The 1991 explanatory memorandum could not displace the clear statutory wording (paragraphs 13-15). The same construction disposed of Revenue's Bharat Rasayan appeal (Bharat Rasayan paragraph 3).

Source: [reported judgment / paragraphs ACG 2 / PDF pages 6 / judicial text](#); [reported judgment / paragraphs ACG 8-15 / PDF pages 9, 10, 11, 12, 13, 14 / judicial text](#); [reported judgment / paragraphs Bharat Rasayan 3 / PDF pages 15 / judicial text](#)

03 JUDICIAL DECISION

ACG's appeal was allowed, the Bombay High Court order set aside, and the matter remanded to the Assessing Officer specifically to work out the deductions from rent and interest in accordance with the judgment. The separate DEPB issue had already been decided in ACG's favour by applying Topman. Revenue's Civil Appeal No. 4534/2008 was dismissed because the Delhi High Court's net-interest approach was consistent with the Court's holding; the underlying factual recomputation stood. Both dispositions carried no costs. No final deduction amount was awarded (ACG paragraphs 2 and 16; Bharat Rasayan paragraph 3).

Source: [reported judgment / paragraphs ACG 2, 16 / PDF pages 6, 14 / judicial text](#); [reported judgment / paragraphs Bharat Rasayan 3 / PDF pages 15 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the legal computation issues

ACG Civil Appeal No. 1914/2012 allowed and remanded for rent/interest recomputation; Revenue Civil Appeal No. 4534/2008 dismissed; no costs in either

Net-versus-gross legal rule decided; qualifying expenses and individual deduction computation remain fact-dependent

Applies to the relevant net receipt actually included in computed business profits, after legally allowable expenses. No blanket offset of any expense against any interest/rent, no award of the return claim, and no current export-deduction certification.

Source: [reported judgment / paragraphs ACG 16; Bharat Rasayan 1-3 / PDF pages 14, 15 / judicial text](#)

05 AKHB REVIEW POINT

Use a two-stage working: compute business profits with receipts and legally allowable expenses first, then identify the net rent/interest amount actually included and apply the 90% exclusion. Preserve evidence linking the expense to the receipt; do not treat the word net as permission to subtract unrelated costs. Classification under the business-income head is a predicate in the Court's reasoning, not a result granted to every interest receipt.

Keep the appeal remedies separate. ACG received a fresh AO computation of rent/interest under the corrected method, while Revenue lost the Bharat Rasayan appeal. Topman supplied the DEPB classification; its actual paragraphs 12-17 and operative paragraph 23 were checked in a bounded comparison. Neither judgment awards the full claimed deduction automatically. The assessment-year legislation and all subsequent developments still require verification.

Source: [reported judgment / paragraphs ACG 3, 8-12, 16; Bharat Rasayan 2-3 / PDF pages 6, 7, 9, 10, 11, 12, 14, 15 / judicial text](#); [reported judgment / paragraphs Topman 12-17 and 23; bounded same-day companion check / PDF pages 23, 24, 25, 26, 27, 34 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS**Issue results**

1.

Issue: DEPB transfer-profit issue in ACG

Result: Topman applied: sale value less face value, rather than whole DEPB sale receipt

In whose favour: ACG

Pinpoints

1.

Source url: [Open cited source](#)

PDF pages: 5; 6

Paragraphs: ACG 2

Source role: judicial text

2.

Issue: 90% Explanation-(baa) exclusion of rent and interest

Result: 90% of net rent or net interest actually included in computed business profits after allowable expenses

In whose favour: Assesseees

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: ACG 8-12

Source role: judicial text

3.

Issue: ACG remedy

Result: High Court order set aside; AO to work out deductions from rent and interest under the judgment; no costs

In whose favour: ACG on law; amount open

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 14

Paragraphs: ACG 16

Source role: judicial text

4.

Issue: Bharat Rasayan companion Revenue appeal

Result: Civil Appeal No. 4534/2008 dismissed; favourable net-interest method and underlying factual examination remain; no costs

In whose favour: Bharat Rasayan Limited

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 14; 15

Paragraphs: Bharat Rasayan 1-3

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

28; 28(iib); 28(iia); 28(iic); 28(iie); 30-44D; 80M; 80HHC(3)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. K. Patnaik, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

COMPANION DECISIONS AND DISTINCT REMEDIES

1.

Case id: sc-2012-02-08-topman-exports

Relationship: Same-day DEPB holding applied in ACG paragraph 2; not later judicial treatment

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: ACG 2

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 25; 34

Paragraphs: Topman 14 and 23

Source role: judicial text

Scope limit: Topman was not fully reread for this note; only specified bounded pages checked.

SOURCE & VERIFICATION

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

Identified source rendition: 15 PDF pages; SHA-256

66479c5e7031141139b12b4b7dfb78190ad8305a0051e37ba2457e4131fe791c. Original bytes preserved.

Report/headnote/references on physical pages 1-5; jurisdiction and both appeal numbers on page 5. ACG judicial paragraphs 1-16 on physical pages 5-14; separate Civil Appeal No. 4534/2008 (Bharat Rasayan) paragraphs 1-3 on pages 14-15, fully read. Paragraph numbering restarts for the companion. No adjacent judgment.

[Open cited source rendition](#)

AY 2003-04 is expressly stated in ACG paragraph 3. No assessment year is supplied for Bharat Rasayan in its separately numbered paragraphs 1-3; none is inferred from the High Court or appeal dates.

The principal holding concerns the quantum excluded from already computed business profits under Explanation (baa). The separate DEPB issue under section 28(iiid) is resolved by applying Topman. Sections 28 and 30-44D supply the business-income computation predicates; section 80M is an interpretive analogy from Distributors (Baroda), not separate relief.

The preserved reported rendition, not a separately retrieved signed original, is used. Its cached public acquisition URL and local exact hash are retained; no new live judgment retrieval is claimed.; The judicial heading on page 5 leaves the civil-appeal number blank, but the title and jurisdiction line print Civil Appeal No. 1914/2012. SLP(C) No. 32450/2010 appears directly below the incomplete heading.; Paragraph numbering restarts for Civil Appeal No. 4534/2008 on physical page 14. Unqualified paragraph 3 or paragraph 16 references would obscure the distinct companion outcome.; The large ACG claim of Rs. 34,44,24,827 and restricted deduction of Rs. 2,36,25,053 were visually checked on physical page 6; no corrective amounts are invented.; Bharat Rasayan paragraph 2 on physical page 15 prints excess between interest paid and interest received when describing the Tribunal remand. The note preserves the need for factual examination and does not silently replace that printed word with nexus.; OCR repeatedly renders 44D as 440 and 80HHC as SOHHC/BOHHC. The page-9 image confirms the statutory computation range as sections 28 to 44D.; The net-interest ruling does not remove the condition that the receipt be included in computed business profits or that the expense be legally allowable.

Civil Appeal No. 1914/2012 arises from SLP(C) No. 32450/2010 and is the ACG assessee appeal. Civil Appeal No. 4534/2008 is the Revenue appeal concerning Bharat Rasayan Limited. The judicial paragraph numbering restarts at 1 for the latter; all pins distinguish the two sections.

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: 15](#)

SHA-256: 66479c5e7031141139b12b4b7dfb78190ad8305a0051e37ba2457e4131fe791c

[reported judgment - PDF pages: 34](#)

SHA-256: dbefc6a3b8e0d4be693c3ad731a45518545d4b87ac58b4e7d36ad0a1eafe8587

[Related note: M/s Topman Exports v. Commissioner of Income Tax, Mumbai](#)

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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