

## M/s Topman Exports v. Commissioner of Income Tax, Mumbai

Civil Appeal Nos. 1699-1701 of 2012 / Civil Appeal Nos. 1704-1750 of 2012 / Civil Appeal Nos. 1754-1848 of 2012 / Civil Appeal Nos. 1850-1856 of 2012 / Civil Appeal Nos. 1858-1913 of 2012

[2012] 4 SCR 684 | 2012-02-08

**Whether the entire DEPB sale consideration, or only its excess over face value, was profit on transfer under section 28(iiid), and how the distinction affected section 80HHC computation.**

28(iiib) | 28(iiid) | 28(iiie) | 80HHC(1) | 80HHC(1B) | 80HHC(3)(a) | 80HHC(3) first to fourth provisos | 80HHC Explanation (baa)

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

Assessment years: 2002-03

### Historical section 80HHC computation and recomputation direction

Topman separates DEPB face value from transfer profit and directs the Assessing Officer to recompute the deduction. The note describes the historical provisos considered by this judgment; their later validity and operation have not been comprehensively audited. No fixed deduction, refund, or present-day export-incentive entitlement is certified.

### 01 FACTS OF THE CASE

The lead assessee manufactured and exported fabrics and garments. In the previous year relevant to 2002-03 it sold DEPB and DFRC credits and claimed a section 80HHC deduction of Rs. 83,69,303. Treating the entire incentive-sale receipts as transfer profits produced an export loss under the Assessing Officer's calculation. The assessee contended that only the excess over face value was transfer profit. The Tribunal's Special Bench accepted the distinction between DEPB accrual and its later transfer; the Bombay High Court reversed that approach following Kalpataru Colours and Chemicals. The Supreme Court heard the resulting batch (paragraphs 2-5).

Source: [reported judgment / paragraphs 2-5 / PDF pages 14, 15, 16, 17, 18 / judicial text](#)

## 02 DISCUSSION BY THE HON'BLE COURT

DEPB was assistance against exports, receivable after exports and an application, and its face value fell under section 28(iiib) even before transfer. Transfer profit was a separate item under section 28(iiid). Because the credit represented a cost element connected with imported inputs, transfer profit was the sale value less face value, rather than the entire proceeds. Selling instead of using the credit did not eliminate that cost element (paragraphs 10-15).

The classification did not depend on whether accrual and transfer occurred in the same year. In one year, face value was taxable under clause (iiib) and the transfer excess under clause (iiid); if transfer occurred in a subsequent year, the face value belonged to the accrual year and only the transfer excess to the later year. This avoided taxing the same face value again as transfer profit (paragraph 16).

The Court then applied section 80HHC's separate computation steps. Explanation (baa) reduced business profits by 90% of the relevant section 28 amounts included for the year. Thus, if DEPB accrued in an earlier year and was sold in a later year, the later-year reduction concerned transfer profit, not the entire sale consideration. If both events occurred in the same year, both relevant components attracted the prescribed reductions. The adjusted business profit was used in the export-turnover/total-turnover formula, followed by the additions under the applicable provisos and the assessment-year deduction percentage (paragraphs 18-21).

The then third proviso imposed evidentiary conditions for the DEPB add-back where export turnover exceeded Rs. 10 crore. Failure to satisfy those conditions did not enlarge transfer profit into gross sale proceeds or deprive the assessee of the smaller Explanation (baa) exclusion otherwise required by the text. The add-back and the initial business-profit adjustment were distinct (paragraphs 21-22).

Source: [reported judgment / paragraphs 10-22 / PDF pages 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 / judicial text](#)

## 03 JUDICIAL DECISION

The High Court judgments and orders were set aside and the appeals allowed to the extent explained. The Assessing Officer was directed to compute each appellant's section 80HHC deduction in accordance with the judgment. No final deduction amount was awarded, and no costs were ordered (paragraph 23).

Source: [reported judgment / paragraphs 23 / PDF pages 34 / judicial text](#)

#### 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the statutory classification and computation issue

High Court orders set aside; appeals allowed to the indicated extent; AO directed to recompute; no costs

Binding legal method resolved; individual deduction computations remain for the Assessing Officer

No blanket deduction of gross DEPB sale proceeds, no fixed refund or universal companion-year result, and no waiver of independently applicable statutory conditions. The detailed ratio concerns DEPB; DFRC and section 28(iii) also occur in the facts and proviso analysis.

Source: [reported judgment / paragraphs 23 / PDF pages 34 / judicial text](#)

#### 05 AKHB REVIEW POINT

Reconcile the DEPB application/accrual year, face value, transfer year and sale value before calculating the deduction. Preserve both calculations: the Explanation (baa) business-profit reduction and the separate proviso-based add-back. Collapsing them into one test can wrongly exclude the entire proceeds, particularly when accrual and sale occur in different years.

The historical turnover-based conditions are described as applied in this judgment, not certified as the last word on their later validity or operation. Its recomputation direction is not an award of the amount claimed. Its section 80HHC formula also does not, by itself, displace Liberty India's distinct sections 80-IA/80-IB nexus ruling.

Source: [reported judgment / paragraphs 16; 19-23 / PDF pages 26, 27, 31, 32, 33, 34 / judicial text](#); [reported judgment / paragraphs Liberty: 14-24 / PDF pages 22, 23, 24, 25, 26 / judicial text](#)

#### ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

28(iii): comparison with sale of import licences; 260A: Revenue's High Court appeal route; DEPB Handbook paragraphs 4.37 and 4.42; Export and Import Policy 1997-2002 paragraphs 7.14-7.16 and 7.38

#### JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. K. Patnaik, J.

#### ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

#### DIFFERENT STATUTORY QUESTIONS IN THE COMPARED DECISIONS

**Case id:** sc-2009-08-31-liberty-india

**Classification:** editorial distinct statutory questions

**Finding:** Topman decides sections 28/80HHC classification and formula; Liberty decides the historical industrial-profit source requirement under sections 80-I/80-IA/80-IB. No overruling relationship is inferred from these texts.

## SOURCE & VERIFICATION

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

Identified source rendition: 34 PDF pages; SHA-256

dbefc6a3b8e0d4be693c3ad731a45518545d4b87ac58b4e7d36ad0a1eafe8587. Original bytes preserved.

Editorial headnote/references on physical pages 1-13; jurisdiction and full companion list on pages 13-14; judicial paragraphs 1-23 on pages 14-34, printed SCR pages 697-717. No adjacent judgment.

### Open cited source rendition

2002-03 is stated for the lead Topman Exports facts. No universal companion-year allocation is inferred.

The exact numbers printed on pages 13-14 are consolidated into contiguous ranges above. Missing numbers 1702-1703, 1751-1753, 1849 and 1857 are not added.

Primary source is the reported rendition; no separately retrieved signed original is claimed.; The lead DFRC sale amount appears as Rs. 1,65,616 on printed page 698 and Rs. 1,65,612 on page 699; the note does not choose one as verified.; Paragraph 22 must be read with paragraph 21: denial of the special add-back is tied to failure of the conditions, not turnover alone.; The stated section 80HHC sunset and percentages belong to the historical provision quoted in paragraph 18. Later amendments, constitutional decisions and comprehensive treatment are not audited.

## STATUTORY SCOPE

Historical 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 current-law audit. Any particular relationship checked from a later judgment is identified separately.

## IDENTIFIED SOURCE LINKS

### reported judgment - PDF pages: 34

SHA-256: dbefc6a3b8e0d4be693c3ad731a45518545d4b87ac58b4e7d36ad0a1eafe8587

### reported judgment - PDF pages: 26

SHA-256: 5db8633102fd24ac85be84b344745e5bc679791cd8c15a21e444788a02ec121a

### Related note: M/s Liberty India v. Commissioner of Income Tax

## 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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