

Vikas Kalra v. The Commissioner of Income Tax-VIII, New Delhi

Civil Appeal No. 1915 of 2012 / Civil Appeal No. 1916 of 2012

[2012] 3 SCR 273 | 2012-02-08

How the two section 80HHC appeals should be disposed of after the same-day Supreme Court decisions in Topman on DEPB transfer profit and ACG on Explanation (baa).

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

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

Assessment years: 2001-02, 2004-05

Companion application only; source wording requires care

Both appeals were disposed of by applying Topman and ACG, with no independent numeric allowance or new formula. The headnote's clause-(iiid) face-value reference conflicts with judicial paragraph 3, and the paragraph-4 total-turnover wording describes the High Court issue. Use the incorporated judgments and relevant-year conditions. Later treatment, present-law entitlement and Income-tax Act 2025 mapping are not certified.

01 FACTS OF THE CASE

The appellant manufactured and exported leather garments. For AYs 2001-02 and 2004-05 he claimed section 80HHC deductions, but the Assessing Officer treated the whole DEPB sale value as profit under section 28(iiid); the Commissioner (Appeals) sustained the assessments. Following the Tribunal Special Bench's Topman decision, the Tribunal distinguished face value as cash assistance under section 28(iiib) from the sale-value excess as transfer profit under section 28(iiid) and allowed the appeals (paragraph 3).

The Delhi High Court set those Tribunal orders aside and remitted for consideration on merits because the Bombay High Court had reversed the Special Bench approach in Kalpataru Colours and Chemicals. In the AY 2004-05 High Court appeal there was also an Explanation-(baa) issue, which the High Court treated as covered by Shri Ram Honda Power Equip. The assessee brought these two Supreme Court appeals (paragraphs 2 and 4).

Source: [reported judgment / paragraphs 2-4 / PDF pages 4, 5 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court gave no independent extended construction of either provision in this judgment. It recorded that its same-day Topman decision had set aside the Bombay High Court's Kalpataru Colours and Chemicals judgment, and that the separate ACG decision had affirmed the Delhi High Court's Shri Ram Honda approach (paragraph 5).

Those incorporated decisions therefore supply the legal rules. The checked Topman passage treats DEPB face value as section 28(iiib) assistance and the sale-value excess as section 28(iiid) transfer profit; ACG uses the relevant net interest/rent actually included in computed business profits for the 90% Explanation-(baa) exclusion. Vikas applies both results to the appeals before it. It does not independently announce a new DEPB or total-turnover formula (Vikas paragraph 5; Topman paragraphs 12-16; ACG paragraphs 8-12).

Source: [reported judgment / paragraphs 5 / PDF pages 5 / judicial text](#); [reported judgment / paragraphs Topman 12-16 / PDF pages 23, 24, 25, 26, 27 / judicial text](#); [reported judgment / paragraphs ACG 8-12 / PDF pages 9, 10, 11, 12 / judicial text](#)

03 JUDICIAL DECISION

Both appeals were disposed of in terms of the same-day Topman and ACG judgments, with no order as to costs (paragraph 5). The Vikas order does not separately state a final deduction amount or specify a new remand forum. Its operative incorporation must be read with the actual computation directions and conditions in those two decisions, rather than labelled an unconditional allowance of all claimed deductions.

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the incorporated governing computation principles, subject to their application

Civil Appeal Nos. 1915 and 1916/2012 disposed of in terms of Topman and ACG; no costs

Application by incorporation of two same-day decisions; no standalone new ratio or quantified award

The operative verb is disposed of. No separate express Vikas remand direction, final deduction amount or complete application calculation is supplied. Do not import a present-law certification or erase statutory predicates from the incorporated decisions.

Source: [reported judgment / paragraphs Both civil-appeal numbers and judicial 5 / PDF pages 3, 5 / reported metadata and judicial text](#)

05 AKHB REVIEW POINT

Use this judgment as a companion-application authority. For a calculation, cite Topman for DEPB accrual/face value and transfer profit and ACG for the quantum of the Explanation-(baa) exclusion, then reconcile the relevant assessment-year facts and legal conditions. Vikas supplies neither a fresh universal formula nor a numeric allowance.

Be especially careful with the report. The first-page headnote places face value under section 28(iiid), while judicial paragraph 3 correctly states section 28(iiib). Paragraph 4 describes the additional High Court issue using total-turnover language; ACG's reasoned ruling is about profits of the business under Explanation (baa). Preserve those source distinctions instead of turning the headnote error or issue description into the Court's ratio. These are same-day companion comparisons, not a comprehensive later-treatment review.

Source: [reported judgment / paragraphs First-page headnote contrasted with judicial 3-5 / PDF pages 1, 4, 5 / reported headnote and judicial text](#); [reported judgment / paragraphs Topman 14 and 23 / PDF pages 25, 34 / judicial text](#); [reported judgment / paragraphs ACG 8-12, 16; Bharat Rasayan 3 / PDF pages 9, 10, 11, 12, 14, 15 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: DEPB component distinction

Result: Topman governs the treatment of face value and transfer excess; gross sale proceeds are not automatically transfer profit

In whose favour: Assessee on governing principle

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: 5

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 23; 24; 25; 26; 27

Paragraphs: Topman 12-16

Source role: judicial text

2.

Issue: Explanation (baa)

Result: ACG/Shri Ram Honda construction applied by reference; no new total-turnover rule articulated

In whose favour: Assessee on incorporated computation approach

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: 4-5

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: ACG 8-12

Source role: judicial text

3.

Issue: Operative treatment of both appeals

Result: Disposed of in terms of both companion judgments, without costs; no independent quantified relief

In whose favour: Assessee on principles; application remains subject to incorporated decisions

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: 5

Source role: judicial text

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: Applied by express same-day incorporation; not subsequent treatment

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: 5

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 25; 34

Paragraphs: Topman 14 and 23

Source role: judicial text

2.

Case id: sc-2012-02-08-acg-associated-capsules

Relationship: Applied by express same-day incorporation; not subsequent treatment

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: 5

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 11; 12; 14; 15

Paragraphs: ACG 12, 16; Bharat Rasayan 3

Source role: judicial text

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256

610b8ba44683aea081da4eaa14d5059614b30b8f4b264e55de9b81a50a4a4e43. Original bytes preserved.

Report/headnote/references and jurisdiction on physical pages 1-3; judicial paragraphs 1-5 on physical pages 4-5, fully read.

Both appeals are expressly disposed of in paragraph 5. No adjacent judgment.

[Open cited source rendition](#)

Both years are stated in paragraph 3. Paragraph 4 identifies ITA No. 185/2011 with AY 2001-02 and ITA No. 308/2011 with AY 2004-05.

The short judgment applies its same-day Topman and ACG decisions. Paragraph 3 distinguishes clause (iiib) face-value assistance from clause (iiid) transfer profit. The paragraph-4 total-turnover phrasing is a report of the additional High Court issue, not a newly reasoned Supreme Court interpretation of Explanation (baa).

Primary source is the unchanged reported rendition. No signed original or new live retrieval of the judgment is claimed.; The physical page-1 headnote misprints face-value cash assistance as section 28(iiid); physical page 4, judicial paragraph 3, says section 28(iiib). Both images were checked; the judicial text controls the note.; The phrase about Explanation (baa) excluding DEPB profits from total turnover appears in judicial paragraph 4 on physical page 5 as the description of the High Court issue. It is not recast as a standalone Supreme Court ratio; ACG's actual reasons address profits of the business.; The jurisdiction line on physical page 3 identifies only ITA No. 308/2011 and its dates, whereas judicial paragraph 2 identifies both High Court orders. Both Supreme Court appeals are retained, without guessing the individual mapping.; Paragraph 5 uses disposed of in terms of the two companion judgments; no independent remand recipient or amount is inserted.

The report lists both civil appeals. Judicial paragraph 2 identifies Delhi High Court ITA No. 185/2011 (order of 18 February 2011) and ITA No. 308/2011 (order of 21 February 2011), each modified on 22 March 2011. Paragraph 4 maps those High Court appeals to the assessment years. The report does not expressly map each Supreme Court number to a High Court appeal; none is inferred.

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: 5](#)

SHA-256: 610b8ba44683aea081da4eaa14d5059614b30b8f4b264e55de9b81a50a4a4e43

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

SHA-256: dbefc6a3b8e0d4be693c3ad731a45518545d4b87ac58b4e7d36ad0a1eafe8587

[reported judgment - PDF pages: 15](#)

SHA-256: 66479c5e7031141139b12b4b7dfb78190ad8305a0051e37ba2457e4131fe791c

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

[Related note: M/s ACG Associated Capsules Pvt. Ltd. \(formerly M/s Associated Capsules Pvt. Ltd.\) v. The Commissioner of Income Tax, Central-IV, 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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