

Premier Breweries Ltd., Karnataka v. Commissioner of Income Tax, Cochin

Civil Appeal No. 1569 of 2007 / Civil Appeal No. 3214 of 2011 / Special Leave Petition (C) No. 10080 of 2014
[2015] 3 SCR 365 | 2015-03-10

Whether the High Court could retain and reframe questions on the assessee's section 37 burden and draw legal inferences from accepted primary facts in a section 256(2) reference, and whether its purported setting aside of the Tribunal required reversal.

37 | 256(2)

Two-judge bench | Ranjan Gogoi, J. | Prafulla C. Pant, J.

Assessment years: See the source-scope notes; no year inferred.

Historical reference limits and three distinct dispositions

This historical section 256(2) case concerns legal inferences from accepted primary facts; it does not authorise unrestricted factual reconsideration or impose a blanket ban on liquor-sector commissions. Both civil appeals and SLP(C) No. 10080 of 2014 were dismissed, with no remand; assessment years are not stated. The corporate-management-charge question was omitted from the reframed questions and receives no independent merits holding here. The headnote's isolated section 265(2) reference conflicts with the judicial text's section 256(2). The unchanged reported-mirror PDF is the reviewed source, and its URL could not be revalidated here. Later treatment/current law are unverified; no 2025-Act mapping is certified.

01 FACTS OF THE CASE

The assessee manufactured beer and other alcoholic beverages and sold into States whose marketing corporations were exclusive wholesale purchasers. They claimed that commission agents were needed to coordinate supplies with those corporations and retailers, and sought section 37 deduction. In the lead case the Assessing Officer disallowed the claim, the Commissioner (Appeals) agreed, and the Tribunal allowed it. Twelve questions were referred to the Kerala High Court, which retained three concerning proof of claims of Rs. 7,75,602 and Rs. 22,72,192 and the business purpose of payments to Golden Enterprises. R.J. Associates was the other claimed agent (paragraphs 1-5, 10).

The High Court answered against the assessee and also purported to set aside the Tribunal's order. The assessee challenged reframing after argument, the use of appellate-style relief in reference jurisdiction, and alleged reappreciation of facts without a perversity question. The connected Karnataka matters followed the Kerala decision (paragraphs 1, 6-10).

Source: [reported judgment / paragraphs 1-6, 10 / PDF pages 4, 5, 6, 7, 10, 11, 12 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court reaffirmed that section 256 reference jurisdiction is advisory. A High Court does not sit in appeal over the Tribunal and cannot set its order aside in that jurisdiction. Here, however, the final paragraph also expressly answered the referred questions against the assessee; the additional setting-aside language was an error of form rather than substance, warranting no reversal (paragraphs 7-9).

Examining all twelve original questions and the three retained ones, the Court found that the High Court had discarded, rather than introduced, questions aimed at factual perversity. It accepted the agreements, affidavits and payments as primary facts and asked what legal inference followed for section 37. Agreements and evidence of payment alone did not conclusively establish that a commission was wholly and exclusively for business; the assessing authority could examine the relevant facts, consistently with *Swadeshi Cotton Mills* and *Lachminarayan Madan Lal* (paragraphs 10-11).

The relevant material included government circulars regulating, if not prohibiting, liaison for supply orders; affidavits from the husbands of the R.J. Associates partners; questions about that firm's existence; and the TASMAC managing director's statement that Golden Enterprises had done no liaison work. In evaluating the legal consequence of that material, the High Court had not disturbed the Tribunal's primary facts. Correct legal inference from accepted facts is a question of law, so no separately framed perversity question was necessary here. The reframed questions and their answers were upheld (paragraph 12).

Source: [reported judgment / paragraphs 6-12 / PDF pages 7, 8, 9, 10, 11, 12, 13, 14 / judicial text](#)

03 JUDICIAL DECISION

Civil Appeal No. 1569 of 2007 was dismissed. Civil Appeal No. 3214 of 2011 and SLP(C) No. 10080 of 2014 were also dismissed in light of the lead reasoning. The adverse section 37 answer stood; no remand or separate costs direction is stated (paragraphs 13-14).

Source: [reported judgment / paragraphs 13-14 / PDF pages 14, 15 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue overall

Both civil appeals and the SLP dismissed

Lead reference-jurisdiction and deduction merits upheld; companions disposed of consequentially

The case permits drawing legal inferences from accepted facts, not unrestricted reappreciation of evidence in a reference. It does not categorically forbid every commission paid in a regulated liquor trade. The corporate-management-charge question was omitted from the High Court's reframed questions; the Court did not supply a distinct merits analysis of that claim.

Source: [reported judgment / paragraphs 1, 13-14 / PDF pages 4, 14, 15 / judicial text](#)

05 AKHB REVIEW POINT

Keep the factual premise separate from the legal inference. For a claimed commission deduction, contemporaneous evidence should establish the actual services and their business purpose, not merely an agreement and payment. For a historical reference, identify the questions actually referred and retained: an objection to factual perversity differs from a legal challenge on accepted primary facts. The Court's treatment of the setting-aside language as harmless was tied to the High Court's express answers; it did not enlarge reference jurisdiction. Nor does the decision create a general section 37 bar for all liquor-sector commissions or independently dispose of the omitted corporate-management-charge issue.

Source: [reported judgment / paragraphs 5, 7-12 / PDF pages 6, 7, 8, 9, 12, 13, 14 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Appeal groups

1.

Case numbers: Civil Appeal No. 1569 of 2007

Disposition: Dismissed following full lead reasoning

Remand: False

Pinpoints

1.

Source url: [Open cited source](#)

PDF pages: 14

Paragraphs: 12-13

Source role: judicial text

2.

Case numbers: Civil Appeal No. 3214 of 2011; Special Leave Petition (C) No. 10080 of 2014

Disposition: Also dismissed in light of the lead decision; no separate analysis

Remand: False

Pinpoints

1.

Source url: [Open cited source](#)

PDF pages: 15

Paragraphs: 14

Source role: judicial text

Issue results

1.

Issue: Purported setting aside of Tribunal in reference jurisdiction

Result: Impermissible form of relief, but harmless here because the High Court actually answered the referred questions

In whose favour: Assessee on jurisdictional principle; no operative relief

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: 7-9

Source role: judicial text

2.

Issue: Reframing and inference from accepted primary facts

Result: Permissible legal inquiry; no perversity question needed on these facts

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14

Paragraphs: 11-12

Source role: judicial text

3.

Issue: Section 37 commission deduction

Result: Adverse deduction answer sustained; agreements, affidavits and payment did not themselves discharge the business-purpose burden

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: 11-13

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

131; 260A

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Prafulla C. Pant, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SCOPE AND LIMITS OF THE RECORDED TREATMENT CHECKS

1.

Scope: Paragraphs 6-12 discuss M. Janardhana Rao, C.P. Sarathy Mudaliar, Sudarshan Silks, Swadeshi Cotton Mills and Lachminarayan Madan Lal.

Pages actually read: 7; 8; 9; 10; 11; 12; 13; 14

External originals checked: False

Later treatment checked: False

Result: Embedded treatment and quoted propositions read; no external authority or subsequent treatment audit.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 15 PDF pages; SHA-256

689360f3b9e7452998310e7ed5398130e3409c4d1026e38f2a3f6102e71dc887. Original bytes preserved.

Judgment paragraphs 1-14 on physical pages 4-15 (SCR 368-379), fully read, including the complete twelve original questions, three reframed questions and companion dispositions. Pages 1-3 and opening of page 4 are editorial/report material. No neighbouring judgment or separate opinion.

Open cited source rendition

The report says the companion Karnataka proceedings concern different assessment years but does not state those years or the lead assessment year. No year is inferred from the assessment-order date or case numbers.

The merits concern proof that commission was wholly and exclusively for business under section 37, and the former section 256(2) reference jurisdiction. Section 131 concerns the TASMAT witness summons. Section 260A enters through an argument by analogy to M. Janardhana Rao, not a separate section 260A holding.

Unchanged reported eSCR mirror; no separate signed original retrieved and no successful live revalidation of the public acquisition URL.; The editorial headnote on page 1 has an isolated section 265(2) reference; the judgment repeatedly identifies section 256(2), which this note follows. Paragraph 1's benefit of disallowance wording is not used to reverse the clear deduction dispute.; No assessment years are specified. The companion SLP remains an SLP in the report, and no leave-grant or converted appeal number is invented.; Paragraph 5 identifies corporate management charges to U.B. Limited as an original question omitted from the reframed questions; no separate merits outcome on that head is inferred.

The Kerala section 256(2) reference decision is the lead merits matter. The Karnataka matters followed that reasoning; the second civil appeal and SLP were dismissed in paragraph 14. The SLP is not recast as a numbered civil appeal or an independently reasoned separate judgment.

STATUTORY SCOPE

Historical Income-tax Act, 1961 provisions only. No current-law certification or 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. Only the three assigned reported judgments were reviewed; earlier authorities discussed or quoted within them were not independently reread.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 15

SHA-256: 689360f3b9e7452998310e7ed5398130e3409c4d1026e38f2a3f6102e71dc887

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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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