

Seshasayee Paper & Boards Limited v. Deputy Commissioner of Income Tax

Civil Appeal No. 1812 of 2005 / Civil Appeal No. 1813 of 2005 / Civil Appeal No. 4498 of 2015

[2015] 7 SCR 1054 | 2015-05-15

Whether an assessee who claimed current depreciation could exclude brought-forward depreciation and instead use unabsorbed investment allowance first under the historical statutory scheme.

32(1) | 32(2) | 32A | 34 | 72(2) | 73(3)

Two-judge bench | A.K. Sikri, J. | R.F. Nariman, J.

Assessment years: 1991-92, 1992-93

Investment allowance issue; conflicting description of business-loss priority

This historical result concerns an assessee claiming current depreciation while omitting brought-forward depreciation to use investment allowance first. Paragraph 21 overstates Mother India's rule: that earlier judgment preserves carried-forward business-loss priority over carried-forward depreciation, while current depreciation comes first. The actual investment-allowance result is not a universal contrary ordering rule. Current law, later amendments and comprehensive treatment remain unverified.

01 FACTS OF THE CASE

The paper manufacturer's AY 1991-92 computation produced Rs.2,87,15,912 before the disputed set-off. It had both unabsorbed investment allowance and earlier depreciation, but claimed the investment allowance to reach nil income while omitting brought-forward depreciation. The officer also accepted nil income, but used unabsorbed depreciation first, changing what remained available for later years. The appellate authorities and Madras High Court upheld that priority. Three appeals presented the common question, with AYs 1991-92 and 1992-93 identified in the judgment (paragraphs 1-9).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

Under the section 32(2) text applicable to these years, unabsorbed depreciation joined the next year's depreciation by a statutory fiction, subject to the express loss provisions. The Court distinguished the historical Mahendra Mills question of choosing not to claim depreciation at all. It criticised the High Court's abstract framing but found the actual facts decisive: this assessee had claimed current depreciation while trying to exclude the brought-forward component (paragraphs 10–19).

That selective division was impermissible for the investment-allowance priority at issue. Once current depreciation was claimed, the brought-forward depreciation took the same character within the fiction's proper field and had to be included ahead of unabsorbed investment allowance. A general appeal to liberal construction or the expiry of investment allowance did not displace that reading (paragraphs 19–24).

The Court drew on Mother India Refrigeration's discussion of the fiction. Its paragraph 21 contains an overbroad account of that earlier decision's business-loss priority; the actual earlier judgment is separately checked and the conflict is flagged below. The operative issue and conclusion here concern investment allowance. This note does not repeat the stray account as a new universal rule that all depreciation precedes carried-forward business loss.

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

All three assessee appeals were dismissed with costs. The entire depreciation component, current and brought forward, had priority over the unabsorbed investment allowance on these facts. The nil-income figure was not the dispute; the sequence of absorption was. No fresh remand was ordered (paragraphs 19 and 22–24).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the historical allowance sequence

All three assessee appeals dismissed with costs

Final on the selective depreciation-claim and investment-allowance priority question

The assessee actually claimed current depreciation. The historical no-claim discussion is not present-law optionality. The case does not remove sections 72(2)/73(3) or establish that brought-forward depreciation universally ranks ahead of carried-forward business loss.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Identify the year's statutory version and distinguish current depreciation, carried-forward depreciation, business loss and investment allowance rather than treating them as one pool. This decision prevents selectively splitting the depreciation claim to improve investment-allowance utilisation under the historical scheme. The Court's comments about not claiming any depreciation at all must remain within that historical context.

For business-loss priority, read Mother India itself. Its three-judge reasons on SCR pages 565–568 put current depreciation before brought-forward business loss, but preserve the latter's priority over brought-forward depreciation. Seshasayee's paragraph 21 paraphrase should not replace those express distinctions; its own ratio concerns investment allowance. This is a bounded comparison of two fully read judgments, not a conclusion that Seshasayee has been overruled or a comprehensive current computation manual.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, third appeal and common question

Source url: [Open cited source](#)

Pdf pages: 1; 4

Paragraphs: Cover; 1–2

Source role: reported metadata and judicial text

2.

Topic: Facts and years

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: 3–9

Source role: judicial text

3.

Topic: Historical section and loss qualifications

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: 10–13

Source role: judicial text

4.

Topic: Historical optionality distinguished

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14; 15

Paragraphs: 15–19

Source role: judicial text

5.

Topic: Problematic comparison and operative result

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17; 18; 19

Paragraphs: 20–24

Source role: judicial text

6.

Topic: Original Mother India ordering

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13

Paragraphs: Unnumbered reasons, SCR 565–568

Source role: comparison judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

32(1) / 32(2) / 32a: Priority of unabsorbed depreciation over unabsorbed investment allowance where current depreciation was claimed

34: Historical optional-claim reasoning distinguished

72(2) / 73(3): Express statutory qualifications, not erased by the fiction

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A.K. Sikri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 19 PDF pages; SHA-256

62daf3555c31edb8f0933d2df4276cef9993d0365a49c602bf12745f7e7dfe67. Original bytes preserved.

Judicial paragraphs 1–24 on physical pages 4–19 (SCR 1057–1072). Pages 1–3 and opening of 4 are report/editorial material.

No adjacent judgment.

[Open cited source rendition](#)

Paragraph 9 identifies AYs 1991-92 and 1992-93. The detailed numerical narrative is AY 1991-92; the source gives no independent companion-appeal year mapping.

The visible cover says 15 May 2015; an extra MARCH token in the text layer is not visible as the decision date and is excluded.; Paragraph 21 says Mother India preferred aggregate current and carried-forward depreciation over carried-forward business losses. Mother India's actual reasons at SCR 566–568 instead distinguish current depreciation from brought-forward depreciation and preserve business-loss priority over the latter. The specific investment-allowance result here is retained without propagating that inconsistent paraphrase.; Paragraph 20's embedded Mother India quotation is also textually incomplete at the priority sentence. The independently checked earlier source controls the comparison.; The priority list in paragraph 15 includes apparent section-label slips, including 3A and 33A for investment allowance. It is not reproduced as a verified all-category calculation table.; Paragraph 13 mentions an amendment effective 1 April 1996 without later completing that legislative history. The note makes no independent claim about later versions or the current optionality of depreciation.

STATUTORY SCOPE

Current statutory equivalence and 2025 Act applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive later judicial/statutory treatment remains unverified. Any actually read comparison is expressly bounded and separately sourced.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 19](#)

SHA-256: 62daf3555c31edb8f0933d2df4276cef9993d0365a49c602bf12745f7e7dfe67

[reported judgment - PDF pages: 13](#)

SHA-256: 7f2aaf68f6508f73a4589cb16313df09c62151f2499e69f0b90aca55120d9e5e

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.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.