

Oil & Natural Gas Corporation Limited v. Commissioner of Income Tax & Anr.

Civil Appeal No. 730 of 2007; connected Civil Appeal Nos. 728, 732, 734, 735, 739, 742, 4140, 4785, 4787, 4790, 6009, 6010, 6014, 6015, 6017, 6018, 6019, 6022 of 2007 and 2009, 4315, 4316, 4318, 4319, 4320, 4322 of 2008

[2015] 9 SCR 992 | 2015-07-01

Surtax exemption for mineral-oil participation agreements does not extend to the separate statutory class of service and equipment suppliers

Companies (Profits) Surtax Act, 1964: section 24AA(1), (2)(a) and (2)(b) | GSR 307(E), 31 March 1983

Two-judge bench; judgment delivered by Ranjan Gogoi, J. | Ranjan Gogoi, J. | Pinaki Chandra Ghose, J.

Same parties and date, different judgment

Lead Civil Appeal 730/2007 concerns surtax exemption and was dismissed. The separate same-day Civil Appeal 731/2007 concerns sections 44BB and 44D and was allowed. The two decisions must not be merged or their outcomes interchanged.

01 FACTS OF THE CASE

ONGC was assessed as representative assessee for foreign companies under the Companies (Profits) Surtax Act, 1964. It had contracted for services, facilities, ships, aircraft, machinery and plant connected with mineral-oil operations. The agreements did not create direct association or participation in the exploration, extraction or production business. The assessing authority treated them as service agreements in section 24AA(2)(b), outside GSR 307(E) dated 31 March 1983. The Commissioner (Appeals) and Tribunal allowed the claim, but the High Court reversed. ONGC challenged that refusal of exemption.

Source: [Paragraphs 1-7 / SCR pp. 995-999 / PDF pp. 4-8](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 24AA empowered the Government to grant relief to two distinct classes: foreign companies in participation agreements under subsection (2)(a), and service or equipment suppliers under subsection (2)(b). A wide enabling power did not mean every exercise of it covered both classes. Reading the notification's language, the Court found that the Government consciously chose only the first category. ONGC's suggested construction—treating a direct service contract as participation and confining subsection (2)(b) to subcontractors—could not overcome that distinction. The Court applied the cited principles of fiscal and exemption interpretation and observed that Parliament's twofold policy, reflected in the Finance Act 1981 explanatory notes, did not authorise judicial expansion of a notification granting relief in only one field.

Source: [Paragraphs 9-13 / SCR pp. 999-1006 / PDF pp. 8-15](#)

03 JUDICIAL DECISION

GSR 307(E) confined exemption to the foreign-company category enumerated in section 24AA(2)(a). Foreign companies providing the services and facilities described in subsection (2)(b) were omitted despite the Government having power to include them. The Court would not enlarge the notification to cover ONGC's service agreements.

Source: [Paragraphs 12-13 / SCR pp. 1004-1006 / PDF pp. 13-15](#)

04 OUTCOME / IN WHOSE FAVOUR

All appeals under consideration were dismissed without any order as to costs. The challenged High Court orders were affirmed, leaving the refusal of the claimed surtax exemption intact. This was final relief for Revenue on that notification issue, not a remand or a decision denying section 44BB computation.

Source: [Paragraph 13 / SCR p. 1006 / PDF p. 15](#)

05 AKHB REVIEW POINT

AKHB analysis: distinguish the breadth of an enabling exemption power from the actual class selected in the operative notification. Map the agreement's obligations to each statutory category and preserve the exact notification language and relevant dates. A service's close connection to oil exploration does not itself establish participation for this surtax exemption. Identify this ruling by Civil Appeal 730/2007 and keep its Revenue-favourable result separate from the same-day section 44BB ruling in Civil Appeal 731/2007. Verify the governing levy, statutory version and later treatment before applying this historical reasoning.

Source: [AKHB analysis based on paragraphs 5, 12-13 / PDF pp. 7, 13-15](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Complete 15-page report read, including judicial paragraphs 1-13 on SCR pp. 995-1006 / PDF pp. 4-15; preceding headnote and references distinguished.

Open cited source rendition

Complete primary report read; exact source SHA-256 and 15-page count match catalogue.

The report identifies ONGC as representative assessee and prints section 160-A in paragraph 1. No independent correction of that printed reference or specific assessment years is inferred.

All connected dockets in the report's jurisdiction block are retained. The same-date section 44BB judgment has different lead and connected dockets and opposite relief.

The reproduced notification and Finance Act explanatory notes are reviewed as quoted in the judgment; separate original Gazette and explanatory-note verification is not claimed.

STATUTORY SCOPE

Historical Companies (Profits) Surtax Act exemption dispute under GSR 307(E) of 31 March 1983. This is not an income-tax section 44BB computation ruling or an automatic statement of current oil-sector tax incentives.

LATER TREATMENT

Source checked 2026-10-12. Comprehensive later judicial treatment has not been checked. No current-law or citator clearance is represented.

[Related note: Oil & Natural Gas Corporation Limited v. Commissioner of Income Tax & Anr.](#)

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report; independent human review is not represented.

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