

M/s. Fibre Boards (P) Ltd. Bangalore v. Commissioner of Income Tax, Bangalore

Civil Appeal No. 5525 of 2005 / Civil Appeal No. 5526 of 2005

[2015] 8 SCR 906 | 2015-08-11

Whether a 1967 urban-area notification continued after the tax-credit provision was omitted and replaced by section 54G, and whether advances towards relocation assets constituted utilisation of capital gains without completed acquisition in the same assessment year.

54G | 280ZA | 280Y(d)

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

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

Section 54G conditions and a bounded statutory-continuity ruling

The advances holding operates within section 54G's qualifying purposes, utilisation/deposit requirements and acquisition period; it does not excuse indefinite non-acquisition. The notification holding concerns compatible subordinate legislation after repeal and re-enactment, subject to section 24, and is not a universal rule for omitted rules or expired temporary statutes. The source does not expressly identify the numerical assessment year. Later treatment and current statutory versions remain unverified; no automatic Income-tax Act, 2025 mapping or current-law certificate is supplied.

01 FACTS OF THE CASE

The assessee company sought to move its industrial undertaking from Majiwada, Thane to Kurukumbh village, Pune district. It sold the Thane land, building, plant and machinery for Rs. 1.20 crore. Paragraph 1 reports capital gains of Rs. 1,08,33,044 and advances totalling Rs. 1,11,42,973 towards land, machinery and factory construction in the year 1991-1992. On the basis that the advances exceeded the capital gain, the company claimed full section 54G relief (paragraph 1).

The Assessing Officer rejected relief on the area-notification and utilisation/deposit grounds; the Commissioner (Appeals) agreed. The Tribunal allowed the claim. The High Court reversed, treating the old urban-area notification as having expired with the omitted provision and treating advances as insufficient because the new assets had not been purchased in the assessment year. The taxpayer relied on General Clauses Act section 24 to preserve the 22 September 1967 notification and on section 54G's three-year acquisition window; Revenue resisted both grounds (paragraphs 2-6).

Source: [reported judgment / paragraphs 1-6 / PDF pages 7, 8, 9, 10 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court first examined the historical statutory transition. Section 280ZA's tax-credit scheme was omitted when section 54G was introduced from 1 April 1988. The Budget speech, notes and memorandum showed substitution of a relocation exemption for the older tax-credit/Board-approval arrangement. Section 280Y(d), which defined urban area for the earlier scheme, had no independent operative purpose after that substitution; its formal omission in 1990 removed a redundant provision. The new explanation also impliedly replaced that definition (paragraphs 7-15).

General Clauses Act section 24 continues compatible subordinate instruments made under a repealed and re-enacted Central Act or Regulation, unless displaced as that section provides. It does not merely preserve vested rights in the way Revenue argued from section 6. The 1967 notification therefore continued for section 54G. The Court addressed Rayala Corporation and Kolhapur Canesugar directly: their contexts concerned rules, to which section 6 did not itself apply; the additional omission/repeal statement was treated as obiter. The absence of section 6A from those decisions supplied an additional per incuriam reason on this omission/repeal point; the Court also relied on the earlier Constitution Bench in M.A. Tulloch, explaining why express omission can be a form of repeal. This is a statutory repeal/re-enactment analysis, not a statement that every repealed rule survives. The Court distinguished mere expiry of a temporary enactment from legislative repeal (paragraphs 15-35).

On utilisation, section 54G allowed three years after transfer for purchase/acquisition or construction. Requiring completed acquisition within the same assessment year would neutralise that period. The important distinction in subsection (2) was between capital gains utilised for the specified purposes and the unutilised amount requiring deposit. The Court held that the undisputed advances towards these qualifying assets amounted to utilisation; completed purchase in the transfer year was not essential to this claim (paragraphs 36-38).

Source: [reported judgment / paragraphs 12-35; historical transition, section 24 and omission/repeal / PDF pages 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 / judicial text](#); [reported judgment / paragraphs 36-38; utilisation / PDF pages 35, 36, 37, 38 / judicial text](#)

03 JUDICIAL DECISION

Both assessee appeals were allowed and the High Court judgment was set aside. The 1967 notification remained effective for the section 54G claim, and the advances towards specified relocation assets qualified as utilisation on the facts. No remand or separate costs direction appears in the operative conclusion (paragraphs 35-38).

Source: [reported judgment / paragraphs 35-38 / PDF pages 35, 37, 38 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Both appeals allowed; High Court judgment set aside

Final determination of the notification-continuity and qualifying-utilisation grounds

The notification result requires the particular repeal/re-enactment transition and section 24 conditions; the advances result concerns section 54G's specified purposes and statutory periods. It does not waive eventual acquisition/use conditions, excuse deposit of otherwise unutilised gains, or decide deadlines under every capital-gains exemption. No remand is ordered.

Source: [reported judgment / paragraphs 38, concluding disposition / PDF pages 38 / judicial text](#)

05 AKHB REVIEW POINT

Maintain a purpose-and-timing record for relocation advances, and separately test the statutory treatment of any amount that remains unutilised. This judgment recognises qualifying advances within section 54G's structure; it does not create a general exemption for a mere intention to reinvest or eliminate the three-year acquisition framework. The reproduced subsection (2) also retains the return/deposit requirements and the treatment of unutilised deposits.

For statutory transitions, identify the old and new provisions, the subordinate instrument, consistency with the re-enactment, any contrary express provision and any superseding instrument. Keep section 24 continuity distinct from section 6 savings and from repeal of a rule or expiry of a temporary Act. The Court's handling of larger-bench authorities must be reported with its stated obiter/per incuriam reasoning, rather than abbreviated as a blanket overruling. This historical continuity decision supplies no automatic crosswalk or precedent carryover to the Income-tax Act, 2025.

Source: [reported judgment / paragraphs 8, 15-18, 27-38 / PDF pages 15, 16, 17, 23, 24, 27, 31, 32, 33, 34, 35, 36, 37, 38 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS**Issue results**

1.

Issue: Continuation of the 22 September 1967 Thane urban-area notification

Result: Continued under General Clauses Act section 24 for section 54G following omission and modified re-enactment of the earlier scheme

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 19; 20; 23; 24; 25; 26; 27; 35

Paragraphs: 12-18, 35

Source role: judicial text

2.

Issue: Omission as repeal and the Rayala/Kolhapur objections

Result: Express omission can be repeal; the cited omission/repeal statement was treated as obiter in its rule context, with additional section 6A and M.A. Tulloch reasoning

In whose favour: Assessee on this statutory continuity objection

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 27; 28; 29; 30; 31; 32; 33; 34; 35

Paragraphs: 19-35

Source role: judicial text

3.

Issue: Advances as utilisation for section 54G

Result: Advances for the qualifying purchase/acquisition purposes counted as utilisation; completion in the same assessment year was not required

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 35; 36; 37; 38

Paragraphs: 36-38

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

45; 139(1)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R. F. Nariman, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 38 PDF pages; SHA-256

0625cf9fb5d932dcdd8a7cc0538400af94a87650348f90cd1a29e3b0d1872815. Original bytes preserved.

Judgment paragraphs 1-38 on physical pages 7-38 (SCR 912-943), fully read, including legislative extracts and quoted authorities. Physical pages 1-6 and opening of page 7 contain editorial headnote, references, jurisdiction and appearances. No adjacent judgment.

Open cited source rendition

Paragraph 1 says the advances were made in the year 1991-1992; it does not expressly label that period as the assessment year. The judgment thereafter refers to the assessment year in question without identifying it numerically. No assessment year is inferred from an accounting-year reference or the two appeal numbers.

Section 54G(1)-(2) supplies the exemption and utilisation/deposit framework. Omitted sections 280ZA/280Y(d) and the 22 September 1967 notification are material to continuity. General Clauses Act, 1897 sections 24, 6 and 6A are separately central to the repeal/omission analysis. Other Income-tax provisions within quoted authorities are not separate issues in these appeals.

Preserved reported eSCR source; no separate signed-original verification or newly live-validated public URL claimed. No subsequent Fibre Boards decision has been independently reviewed for this batch.; Paragraph 35 (physical page 35, SCR 940) actually prints section 54A in its final line; paragraph 18, the surrounding reasoning and the case throughout concern section 54G. The note flags that source slip rather than silently treating it as a separate holding.; Paragraph 1 reports Rs. 1,20,00,000 sale consideration, a deduction of Rs. 11,62,956 and capital gain of Rs. 1,08,33,044. The subtraction does not reconcile (a Rs. 4,000 discrepancy). The source image confirms those figures. The note repeats the reported gain as reported and supplies no invented correction.; The year 1991-1992 is not expressly labelled as an assessment year. It is preserved as an advances-year reference, with the assessment_years field unasserted.; References to other Income-tax provisions in the long quoted authorities and legislative materials are supporting context, not additional taxpayer-specific holdings.

Two assessee appeals from the Karnataka High Court judgment dated 26 May 2005 in ITRC Nos. 26 and 27/1997. The single narrated transaction raises two independent reasons for relief: survival of the urban-area notification and qualifying utilisation through advances. Both appeals are allowed; no separate issue or assessment-year allocation between them is supplied.

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: 38](#)

SHA-256: 0625cf9fb5d932dcdd8a7cc0538400af94a87650348f90cd1a29e3b0d1872815

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