

A.P. Power Coordination Committee and Others v. M/s. Lanco Kondapalli Power Ltd. and Others

Civil Appeal No.6036 of 2012 with Civil Appeal Nos.6061 and 6138 of 2012, 9304 of 2013 and 6835 of 2015

[2015] 12 SCR 447 | 2015-10-16

MAT is income tax for contractual reimbursement under a power-purchase agreement; limitation and consequential remand distinguished.

Income-tax Act, 1961: historical sections 115JB, 115JA, 115J, 2(43) and 5 | Electricity Act, 2003: sections 86(1)(f), 174 and 175 | Limitation Act, 1963: principles underlying section 14 | Power Purchase Agreement: Articles 1.4, 3.8 and 11.4

Vikramajit Sen and Shiva Kirti Singh, JJ.; common opinion delivered by Shiva Kirti Singh, J. | Vikramajit Sen, J. | Shiva Kirti Singh, J.

Contractual MAT companion, not an assessment appeal

The Court construed this PPA's income-tax reimbursement clause. It did not determine a taxable-income figure, tax credit, export deduction or universal reimbursement entitlement.

Remand is not an award of every amount claimed

Capacity-charge merits remained open before the Commission. MAT entitlement was settled, but consequential orders on the 2001-2005 claims remained to be made.

Historical provisions and source wording

The report's paragraph 37 once refers to Article 3.9 while its quoted clause and repeated holding identify Article 3.8. This note follows the expressly quoted reimbursement clause and preserves the report unchanged.

01 FACTS OF THE CASE

Lanco established a 355 MW gas power project under a 31 March 1997 PPA with the former Andhra Pradesh State Electricity Board. Disputes concerned capacity charges and reimbursement of minimum alternate tax for 2001-2012. Article 3.8 required reimbursement of advance income tax attributable to the project, supported by the stipulated accountant's certificate and later assessment adjustments. After arbitration notices and proceedings before the High Court, Lanco approached the Electricity Regulatory Commission. The Commission rejected the earlier claims on limitation; APTEL excluded time spent pursuing arbitration and remanded them. The purchasers disputed both limitation relief and the contention that MAT fell within the PPA's income-tax clause.

Source: [Primary report: dispute and PPA](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished the Limitation Act's direct application from the limits on the Commission's adjudicatory power. Although the Commission was not a court *stricto sensu*, the Electricity Act did not enlarge a creditor's right to enforce otherwise time-barred monetary claims. Principles underlying section 14 could nevertheless exclude bona fide pursuit before the wrong forum; exclusion from 8 September 2003 to 18 March 2009 was sustained. On MAT, the Court rejected the suggestion that tax on deemed book-profit income ceased to be income tax merely because sections 115JA/115JB form a special code. It cited Ajanta Pharma on that code and explained that MAT's basic character remained income tax. Article 1.4 contemplated amended law; the specific Article 3.8 reimbursement provision took precedence over the general Article 11.4 change-in-law procedure.

Source: [Limitation reasoning](#); [MAT's income-tax character](#)

03 JUDICIAL DECISION

MAT under section 115JB was covered by Article 3.8 and payable by way of reimbursement when the contractual conditions were satisfied. Withdrawal of an earlier exemption and use of deemed book-profit income did not make it a different kind of tax. The tax had to relate only to project income, with accounts maintained as the agreement required; the judgment did not override those safeguards. The earlier MAT claims were not barred after the allowed exclusion of time. The Commission's limitation constraint was confined to its section 86(1)(f) judicial function, not its administrative or regulatory powers.

Source: [MAT holding and contractual conditions](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Lanco on the contested reimbursement entitlement and limitation exclusion. All five appeals were dismissed without an order as to costs. The APTEL remand survived: capacity-charge correctness still required determination by the Commission, and the 2001-2005 MAT claims required consequential orders. This was not an unrestricted final monetary decree for every bill or interest claim, and not a tax refund ordered against Revenue.

Source: [Final disposal](#)

05 AKHB REVIEW POINT

AKHB analysis: first separate the company's statutory MAT liability from the counterparty's contractual duty to reimburse it. For a comparable claim, retain the exact tax clause, project-only computation, accountant's certificate, payment records and assessment true-up, and test whether a specific tax provision displaces a general change-in-law mechanism. Preserve arbitration notices and the full wrong-forum timeline when invoking exclusion of time; this decision does not abolish limitation for electricity disputes. Use its MAT characterization without importing a present tax rate or treating it as a fresh ruling on Ajanta Pharma's export-profit computation. The PPA wording, tax period and later legal position require separate checking.

Source: [Contractual safeguards underlying editorial review](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Entire 51-page report read, including headnote and authorities at SCR447-457 and the sole judicial opinion, paragraphs 1-39, SCR458-497/PDFpp.12-51.

Open cited source rendition

All 1970 extracted lines through EOF read; 51-page count and exact 1,608,572-byte primary verified against registered SHA-256. Caption, opinion opening, MAT reasoning and disposal visually inspected on physical pages 1,12,49,50,51. No page lacked extracted text.

Identity and duplicate comparison found this report used only as bounded later-treatment evidence for Ajanta Pharma, not as standalone coverage of Lanco. That earlier comparison was confined to pages 47-51; this note covers the complete Lanco judgment.

The primary report's historical MAT account is described as the Court's discussion, not independently certified present statutory text. No later-treatment clearance has been undertaken.

STATUTORY SCOPE

Historical direct-tax contractual companion: this appeal decides whether section 115JB MAT is income tax reimbursable under this PPA, not a Revenue assessment or a general right to pass tax to customers. The relevant reimbursement periods are 2001-2012.

LATER TREATMENT

Source checked 2026-10-14. No comprehensive subsequent-treatment or present-law clearance is claimed. Verify the applicable statutory year, governing PPA and later authorities before reliance.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 51

SHA-256: 76b599c95c58d46517851bc767f757cd4d0327e965bf7d9649c6e299e354ca88

Related note: Ajanta Pharma Ltd. v. Commissioner of Income Tax-9, Mumbai

AI DISCLOSURE

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

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, governing statutory version and subsequent treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.