

M/s. Ganapathy & Co., Bangalore v. The Commissioner, Income Tax Bangalore

Civil Appeal No. 1964 of 2008

[2016] 1 SCR 187 | 2016-01-18

Whether the High Court properly upheld three disallowances using admitted facts already on record, without impermissibly redetermining the Tribunal's factual findings.

40A(2) | 35(2A) | 256(2)

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

Assessment years: 1984-85

Relevant-year evidence and historical reference limits

The three disallowances were upheld on this record: no relevant-year service proof, the Court's fact-specific film-loss finding, and no required donation certificate. The source records possible consequential donation relief if the certificate is produced, without granting it or remanding. The old reference jurisdiction did not permit fresh determination of disputed facts. Current statutory routes and later treatment remain unverified.

01 FACTS OF THE CASE

For AY 1984-85 the assessee disputed disallowance of service charges paid to Universal Trading Company, a film-business loss of Rs.31,48,670, and a deduction for a donation to Aparna Ashram under section 35(2A). The Tribunal had granted relief, relying in part on an earlier-year service-charge outcome and a sister concern's film-loss decision. The Karnataka High Court answered the section 256(2) reference questions for Revenue. The assessee appealed, also challenging the High Court's power to reconsider factual findings (paragraphs 1-7).

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

02 DISCUSSION BY THE HON'BLE COURT

On service charges, the decisive omission was evidence that services were rendered during the actual year in question. The assessee answered the officer's query by referring to explanations for the preceding year, and did not supply current-year proof. An earlier favourable result could not foreclose the factual inquiry required for the later assessment (paragraph 4).

On the film-business loss, the Tribunal's reliance on a sister concern's outcome did not bar the High Court from finding that reasoning untenable. On the facts and circumstances identified in the High Court's paragraphs 29–30, the Supreme Court upheld its characterisation of the transaction as a sham device. The Supreme Court report does not reproduce the full underlying transaction evidence, so the finding cannot be turned into a rule against genuine film-business losses (paragraph 5).

For the donation, the required certificate demonstrating compliance with the conditions attached to the donee's registration had not been furnished. The conditions were material, and disallowance stood on the existing record. The Court also recorded the consistent position that consequential benefit could be afforded if and when the certificate was produced; it did not itself grant the deduction or order a fresh remand (paragraph 6).

The Court reaffirmed the Tribunal's fact-finding role and the limits of the old reference jurisdiction. Here the High Court had not made new factual findings or reappraised contested evidence: it considered acknowledged facts already on the record that the Tribunal overlooked or treated as immaterial. That difference in emphasis on undisputed facts remained within its jurisdiction (paragraphs 7–10).

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

03 JUDICIAL DECISION

The assessee's appeal was dismissed without costs. All three High Court answers were sustained. No remand was ordered; the certificate-based possibility recorded for the donation remained distinct from the unsuccessful claim on the existing record (paragraphs 6 and 11).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on all three referred claims

Assessee appeal dismissed without costs; High Court answers sustained

Final determination of the disallowance and reference-jurisdiction issues on the stated record

Service-charge relief failed for lack of proof for the relevant year, not simply common ownership. The film-loss finding is fact-specific. The donation claim lacked the requisite certificate; the source preserves the recorded possibility of consequential benefit upon its production. No general power to redetermine disputed facts on a section 256 reference is granted.

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

05 AKHB REVIEW POINT

Maintain year-specific proof of actual services, and distinguish a settled legal interpretation from recurring factual conditions that must still be proved. A prior-year or sister-concern decision does not fill an evidentiary gap in the present record. For a historically approval-linked deduction, retain the operative approval terms and proof of compliance, not only the donee's name or payment receipt.

When evaluating a reference decision, identify whether the High Court changed disputed facts or instead applied law to admitted facts already recorded. This case accepts the latter; it does not eliminate the Tribunal's fact-finding role. The historical section 35(2A) and section 256 procedures must not be presented as an automatic current-law route.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, author and three referred questions

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Cover; 1–3

Source role: reported metadata and judicial text

2.

Topic: Service evidence and assessment years

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: 4

Source role: judicial text

3.

Topic: Film loss and fact-specific characterisation

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: 5

Source role: judicial text

4.

Topic: Donation certificate and conditional consequence

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: 6

Source role: judicial text

5.

Topic: Reference jurisdiction and admitted facts

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: 7–10

Source role: judicial text

6.

Topic: Final dismissal

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: 11

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

40a(2): Referred question on service-charge disallowance; decided on absence of relevant-year service evidence

35(2a): Historical donation certificate/approval-condition question

256(2): Limits of the High Court's former reference jurisdiction

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ranjan Gogoi, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 7 PDF pages; SHA-256

636e56df13ef44eac1cd8441a91df19b02b9c705bd32b3e1e7274863127bfab8. Original bytes preserved.

Judicial paragraphs 1–11 occupy physical PDF pages 3–7 (SCR 189–193). Pages 1–2 and opening of page 3 contain editorial/report material. No adjacent judgment.

[Open cited source rendition](#)

AY 1984-85 is explicitly the assessment under review in paragraphs 4 and 9; AY 1983-84 is an earlier proceeding, not an additional appeal here.

Paragraph 4 says the assessee claimed the benefit of disallowance and attributes the Tribunal appeal after an adverse first appeal to Revenue; these are apparent narrative slips. The note states the unambiguous claim and procedural outcomes without adopting the inconsistent wording; Paragraph 6 also uses disallowance/refused terminology inconsistently at its opening. Its substantive reasoning and operative outcome clearly uphold the deduction's rejection absent the certificate; The source relies on High Court paragraphs 29–30 for the film transaction's full facts without reproducing them. This note attributes the adverse characterisation to the Court and does not invent underlying acts or generalise the finding; The section 40A(2) label appears in the referred question; no independent percentage, fair-market benchmark or quantum analysis is supplied. No separate deduction section is invented for the film loss.

STATUTORY SCOPE

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

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial or statutory treatment search is claimed. Authorities described in the discussion are those considered in this judgment unless expressly stated otherwise.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 7](#)

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