

Commissioner of Income Tax, Gujarat Central v. Saurashtra Cement & Chem. Industries Ltd.

Civil Appeal No. 2984 of 2008 / Civil Appeal arising out of SLP(C) No. 13766 of 2011

[2016] 4 SCR 867 | 2016-05-02

Whether conferring concurrent ITO powers on the IAC alone disables the old section 144B reference procedure and its section 153 limitation exclusion.

125A | 144B | 153 | 123 | 124 | 125 | 144A

Two-judge bench | A.K. Sikri, J. | Rohinton Fali Nariman, J.

Assessment years: 1981-82

Historical IAC procedure and actual exercise of powers

The result concerns the old section 144B draft-reference process: mere concurrent authority did not eliminate it where the IAC had not actually performed the ITO's functions. Do not transpose the section number to a later assessment scheme or treat the decision as a ruling on substantive additions. Source date/interval/numbering slips are disclosed; current law and later treatment remain unverified.

01 FACTS OF THE CASE

For AY 1981-82, the ordinary completion date was stated as 31 March 1984. The ITO prepared a draft on 13 March 1984, obtained IAC directions on 31 August and completed assessment on 1 September 1984. Revenue relied on the statutory exclusion for the intervening draft-reference process. The assessee argued that the Commissioner's order conferring concurrent ITO powers on the IAC, effective 1 September 1983, made a reference to that officer unnecessary. The Tribunal and Gujarat High Court accepted its limitation objection (paragraphs 2-4).

In the connected Saraya Sugar Mills matter, the Allahabad High Court accepted Revenue's view on the same question, and that assessee appealed. The Court resolved the conflicting approaches together (paragraphs 1 and 5).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read the historical draft-assessment and jurisdiction provisions together. Section 144B required the prescribed draft and objection process, and section 153 Explanation 1(iv) excluded the statutory period, subject to its 180-day ceiling, from forwarding the draft to the assessee until the ITO received the IAC's directions. The taxpayer's challenge turned on whether concurrent jurisdiction displaced that procedure (paragraphs 6–12).

Section 125A(4) required two things: a conferral order and the IAC's actual exercise of the ITO's powers or functions. Conferral alone was insufficient. Unlike an exclusive transfer of functions, concurrent jurisdiction did not strip the ITO of the ability to assess. General directions from the IAC did not themselves amount to taking over that assessing role (paragraphs 13–16).

The same distinction appeared expressly in section 144B(7). On the facts, the IAC had not performed the ITO's assessment functions, so the reference procedure remained available and the associated period was excludable. The Court approved the earlier *Shree Digvijay Woollen Mills* approach and rejected the impugned Gujarat result (paragraphs 17–20).

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

03 JUDICIAL DECISION

Revenue's Civil Appeal No. 2984/2008 was allowed and the Gujarat High Court judgment set aside. *Saraya Sugar Mills'* appeal arising from SLP(C) No. 13766/2011 was dismissed, affirming the Allahabad view. Revenue received costs in both appeals. The limitation objection failed; no separate merits computation or fresh remand was ordered (paragraphs 19–21).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue in both proceedings

Revenue appeal allowed; companion assessee appeal dismissed; costs to Revenue in both

Final ruling on the historical limitation/jurisdiction question, not on the substantive additions

Depends on the IAC not actually exercising ITO functions. This concerns the historical draft-reference version of section 144B and its linked exclusion; the same section number must not be treated as authority for a different later assessment procedure.

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

05 AKHB REVIEW POINT

Separate the power conferred by an administrative order from the functions actually performed. For this historical regime, preserve the conferral order, draft service, objections, IAC directions and evidence of who completed the assessment. The exclusion's statutory endpoints are not merely a generic interval during which papers were with another officer.

Do not apply the old section number without checking the text in force for the proceeding. This judgment settles the concurrent-jurisdiction objection to the old IAC reference; it does not calculate a present limitation period, decide a later faceless-assessment procedure or validate the underlying taxable additions.

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

DETAILED DISPOSITION AND CONNECTED GROUPS**Appeal groups**

1.

Appeals: Civil Appeal No. 2984/2008

Disposition: Allowed; Gujarat judgment set aside

2.

Appeals: Civil appeal arising from SLP(C) No. 13766/2011, Saraya Sugar Mills

Disposition: Dismissed; Allahabad judgment affirmed

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and companion leave

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover; 1

Source role: reported metadata and judicial text

2.

Topic: Chronology and competing proceedings

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: 2-5

Source role: judicial text

3.

Topic: Actual statutory exclusion

Source url: [Open cited source](#)

Pdf pages: 6; 9

Paragraphs: 6, 10-11

Source role: judicial text

4.

Topic: Concurrent authority scheme

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: 12 (both occurrences)

Source role: judicial text

5.

Topic: Actual exercise requirement

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14

Paragraphs: 13–18

Source role: judicial text

6.

Topic: Both operative groups and costs

Source url: [Open cited source](#)

Pdf pages: 14; 15

Paragraphs: 19–21

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

125a / 144b(7): Concurrent IAC authority versus actual exercise of ITO functions

153 explanation 1(iv): Historical exclusion for the draft-assessment reference period

123 / 124 / 125 / 144a: Jurisdiction and directions framework contrasted

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: 15 PDF pages; SHA-256

37f89763733e3935342d5336ba5e7e55f6c00064edc97c97c2feb9d6afdbe25e. Original bytes preserved.

Judicial paragraphs 1–21 on physical pages 3–15 (SCR 869–881), with a repeated paragraph number 12. Pages 1–2 and opening of 3 are report/editorial material. No adjacent judgment.

[Open cited source rendition](#)

AY 1981-82 is the narrated Saurashtra assessment. The companion Saraya Sugar Mills assessment year is not supplied.

The companion is identified only by SLP(C) No. 13766/2011, in which paragraph 1 grants leave. No converted civil-appeal number appears in the source.

The title prints Saurashtra, and that source spelling is retained; this is distinct from the 2010 liquidated-damages case.; The jurisdiction line says the Gujarat judgment was dated 12 January 2005, while paragraph 2 says 20 January 2005. No corrected date is invented.; Paragraph 3 first gives the interval as 13–31 March 1984, whereas paragraph 2 and its continuation specify directions on 31 August and the claimed interval to 31 August. The note reports the chronology without treating the stray March endpoint as a fresh limitation computation.; Paragraph 2 drops the prohibition when paraphrasing section 153; the actual reproduced statutory text says no assessment after the deadline. The quoted text and judicial conclusion control.; There are two paragraphs numbered 12 and a reference to section 125B in paragraph 16 where the surrounding text concerns section 125A. Physical pages and the operative statutory provision are identified rather than silently replicating the slips.

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: 15](#)

SHA-256: 37f89763733e3935342d5336ba5e7e55f6c00064edc97c97c2feb9d6afdbe25e

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