

Commissioner of Income Tax, Kochi v. Trans Asian Shipping Services (P) Ltd.

Civil Appeal No. 5869 of 2016

[2016] 3 SCR 337 | 2016-07-05

Whether an already qualifying shipping company that opted for tonnage taxation had to produce a ship-specific net-tonnage certificate for vessels used only through slot-charter arrangements before including that income in Chapter XII-G deemed-tonnage computation.

115VA | 115VB | 115VC | 115VD | 115VE | 115VF | 115VG(4) | 115VI | 115VX

Three-judge bench | T. S. Thakur, CJI | A. K. Sikri, J. | R. Banumathi, J.

Assessment years: 2005-06, 2008-09

Slot-charter certificate exception is conditional

This decision concerned an already qualifying company owning at least one qualifying ship and electing tonnage taxation for AYs 2005-06 and 2008-09. Only the certificate demanded for partial slot arrangements was dispensed with; actual whole-ship certification and other eligibility conditions remain. Present statutory versions and any later treatment are not certified.

01 FACTS OF THE CASE

The assessee owned a qualifying ship, fulfilled the qualifying-company conditions and had exercised the Chapter XII-G option. Its owned-ship income was already taxed under the tonnage-tax scheme. In AYs 2005-06 and 2008-09 it also earned income by chartering slots in other ships and included that activity in deemed tonnage. It produced the certificate for its owned ship, but not for each vessel carrying cargo under the partial slot arrangements. The Assessing Officer, Commissioner (Appeals) and Tribunal excluded that income, insisting on a valid net-tonnage certificate for the slot vessels. The Kerala High Court reversed that view on 23 January 2015. Revenue appealed, arguing that ship qualification had to be established before computation under section 115VG could arise (paragraphs 10-16 and 18).

Source: [reported judgment](#) / [paragraphs 10-18](#) / [PDF pages 11, 12, 13, 14](#) / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court first preserved the statutory entry conditions: a qualifying company under section 115VC, including ownership of at least one qualifying ship, and an exercised scheme option. It recounted the Indian-company, effective-management and principal shipping-object conditions. Section 115VB expressly includes chartering part of a ship through slot, space or joint arrangements; section 115VE separates this shipping business from other activities (paragraphs 3-8 and 18).

In this case all relevant conditions other than the disputed certificate requirement were satisfied. Section 115VG(4) contains two components: actual tonnage evidenced by the section 115VX certificate, and deemed tonnage calculated under prescribed rules. Its explanation expressly includes purchased slots, slot charters and break-bulk sharing. Giving the legal fiction workable effect required distinguishing whole-ship tonnage from these partial arrangements. The certificate remains compulsory for actual tonnage of an owned or wholly chartered ship, but was not required for the slot arrangement at issue (paragraphs 19-21).

Rule 11Q supplies deemed-tonnage conversion methods, and Form 66 recognises that varying slots across vessels cannot be matched to a single vessel's net tonnage. The form does not require the ship name for deemed-tonnage income. The Court read the Act and Rules harmoniously, considered the core-shipping-income provisions and the competitive purpose of the scheme, and referred to the contemporaneous CBDT Circular No. 05/2005 as supporting this construction (paragraphs 22-27).

Source: [reported judgment / paragraphs 3-8; scheme conditions and computation / PDF pages 5, 6, 7, 8, 9, 10 / judicial text: reported judgment / paragraphs 18-27; slot inclusion, certificate distinction, Rules/Form and circular / PDF pages 14, 15, 16, 17, 18, 19, 20 / judicial text](#)

03 JUDICIAL DECISION

The High Court was affirmed. For the qualifying company and slot-charter arrangements considered, ship-specific tonnage certificates were unnecessary and the related income belonged in the prescribed deemed-tonnage computation. Revenue's appeals were dismissed without costs. No remand or separate computation inquiry was ordered (paragraphs 21, 26-28).

Source: [reported judgment / paragraphs 21, 26-28 / PDF pages 17, 20 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeals dismissed; High Court interpretation affirmed; no costs

Final merits decision on inclusion of slot-charter income and the certificate requirement

The assessee already satisfied qualifying-company, owned-qualifying-ship and election conditions. The judgment does not waive certificates for actual whole-ship tonnage or establish eligibility of a company operating only slots without an owned qualifying ship. It does not make all shipping income exempt or decide unrelated business income.

Source: [reported judgment / paragraphs 28 / PDF pages 20 / judicial text](#)

05 AKHB REVIEW POINT

Keep entry into tonnage taxation separate from the measurement of slot activity. The working file should show qualifying-company status, ownership of at least one qualifying ship, the valid scheme option, and records supporting the prescribed deemed-tonnage calculation. Once those predicates are established, a whole-ship certificate demand cannot displace the specific statutory method for partial slots. Conversely, the certificate exception cannot be carried across to actual tonnage of an owned or wholly chartered vessel. The historical two-year decision supplies no assurance about current rates, later statutory amendments, or the eligibility of every freight or shipping receipt.

Source: [reported judgment / paragraphs 5, 18-24 / PDF pages 6, 7, 8, 14, 15, 16, 17, 18 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Slot charter as an operating-ship activity

Result: Expressly included by section 115VB for this scheme

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 14; 15

Paragraphs: 18

Source role: judicial text

2.

Issue: Certificate for vessels carrying cargo under partial slot charters

Result: Not required for deemed-tonnage computation; actual whole-ship tonnage still requires a valid certificate

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17; 18; 19; 20

Paragraphs: 19-26

Source role: judicial text

3.

Issue: Revenue challenge to High Court relief

Result: Dismissed without costs; no remand

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 20

Paragraphs: 28

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(17); 115V; 115VP; 115VQ; 115VR; 115VS; 260A

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. K. Sikri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

RULES AND FORMS CONSIDERED

Income-tax Rules, 1962, Rule 11Q; Form No. 66, Notes 3 and 4

SOURCE & VERIFICATION

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

Identified source rendition: 20 PDF pages; SHA-256

bfad044abf5c4e9e4b16c7274767d33f75a86a60a57c81ca840d3bcc0ac79ead. Original bytes preserved.

Judgment paragraphs 1-28 on physical pages 4-20 (SCR 340-356), fully read, including statutory extracts, Rules/Form discussion, cited circular and final disposition. Pages 1-3 and opening of page 4 are report/editorial material. No adjacent judgment.

[Open cited source rendition](#)

Both years are expressly identified in paragraph 11, physical page 11.

The cover and jurisdiction heading identify Civil Appeal No. 5869/2016 only. Paragraphs 11, 18 and 28 refer to two assessment years and appeals in the plural; the preserved rendition gives no additional civil-appeal number. The plural disposition is retained without inventing companion identifiers.

Chapter XII-G qualification, operating-ship definition and actual/deemed tonnage are the controlling framework. Rule 11Q and Form 66 are read as reproduced/discussed in the judgment; no current standalone rule or circular version is certified. The Court refers to CBDT Circular No. 05/2005 dated 15 July 2005 in paragraph 27.

The unchanged reported eSCR rendition is the primary source. Cached public source URL, hash and acquisition metadata are used; no fresh official signed rendition or live-link validation is claimed.; Only Civil Appeal No. 5869/2016 is printed, despite the plural disposition and two assessment years. Additional appeal numbers cannot be recovered from this source and are not invented.; The Court's factual finding in paragraph 19 confines the live controversy to the certificate condition. Broad phrasing about non-qualifying slot vessels in submissions or issue formulation must not be used to waive other statutory eligibility requirements.; The source intermittently describes the scheme as an exemption and uses shorthand such as deemed tonnage tax. The note preserves its function as a special deemed-income computation regime and the distinction between relevant shipping income and chargeable tonnage income.; Paragraph 23 mentions Rule 11D in connection with Form 66; this note does not independently certify that cross-reference. The controlling deemed-tonnage provision reproduced in paragraph 21 is Rule 11Q.

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: 20](#)

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