

Director of Income Tax, Circle 26(1), New Delhi v. S.R.M.B. Dairy Farming (P) Ltd.

Civil Appeal No. 19650 of 2017 / Civil Appeal No. 19651 of 2017

[2017] 11 SCR 1118 | 2017-11-23

Does Instruction No. 3 of 2011 apply to Revenue appeals already pending in the High Courts, notwithstanding its prospective wording, and what safeguards qualify that application?

268A

Two judges | R.F. Nariman, J. | Sanjay Kishan Kaul, J.

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

IMPORTANT: HISTORICAL MONETARY-LIMIT RULING

The Rs. 10 lakh High Court limit is the historical Instruction No. 3 of 2011 figure, not a current threshold. Application to pending appeals is subject to the Surya Herbal cascading-effect and common-principle caveats and qualifying exceptions. This judgment does not decide the underlying assessment merits. The later Circular 09/2024 was read in full, but this is only a limited later-instrument check: the incorporated Circular 5/2024 exceptions were not independently read, and no complete or presently applicable appeal regime is certified. Comprehensive later treatment, current-law applicability and Income-tax Act, 2025 mapping remain not_verified.

01 FACTS OF THE CASE

Revenue's two appeals raised a common issue about Instruction No. 3 of 2011 dated 9 February 2011. As described in paragraph 5, that historical instruction set a Rs. 10 lakh tax-effect limit for filing High Court appeals. Revenue argued that appeals filed before the instruction had to be decided on their merits even if their tax effect was below that figure. The Court addressed the instruction's application to pending matters because High Courts, and some Supreme Court orders, had taken divergent approaches (paragraphs 5-7, physical 4/SCR 1121). The Rs. 10 lakh figure is the historical limit in issue, not a statement of the present filing threshold.

The printed appellate recital identifies Delhi High Court's order of 19 April 2011 in ITA 44/2005 and lists Civil Appeals 19650 and 19651 of 2017. The report does not narrate either assessee's underlying assessment dispute, give an assessment year or identify a separate companion tax-effect amount. Accordingly, the litigation-policy result must not be converted into a finding that a particular receipt, deduction or transaction was correctly assessed.

The Court placed the controversy in the context of excessive government litigation, the succession of departmental scrutiny and appellate forums, and the National Litigation Policy's objective of responsible litigation. That background explains its construction of the instruction; the case does not impose a new general statutory bar on Revenue appeals merely because an individual claim appears small.

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

02 DISCUSSION BY THE HON'BLE COURT

The Karnataka High Court's decision in Ranka & Ranka supplied a detailed policy analysis which the Court expressly approved in paragraphs 12 and 23. The judgment recognises the instruction's prospective language, including clause 11's reference to appeals filed on or after 9 February 2011 and earlier instructions governing earlier appeals. It nevertheless adopts the reasoning that a purely filing-date distinction would frustrate the policy of reducing pending litigation and produce anomalies dependent on how quickly a tribunal had disposed of a case. The passages initially describing the instruction as inapplicable to pending proceedings are part of the quoted analysis of its literal wording, not the Supreme Court's ultimate conclusion (paragraphs 8-13 and 23, physical 4-14 and 16).

The statutory and administrative safeguards matter. Section 268A recognises departmental monetary-limit instructions; the adopted discussion of subsections (2) and (3) explains why not pursuing a low-effect matter does not estop Revenue from contesting the issue in an appropriate later year. The historical instruction's exclusions, as discussed here, concern challenges to the constitutional validity of an Act or rule, a Board order/notification/instruction/circular held illegal or ultra vires, and a Revenue audit objection accepted by the Department. Revenue could draw qualifying pending matters to the High Court's attention and seek to prosecute them despite the low tax effect. Those historical exclusions are not certified here as the complete exceptions under any later circular (paragraph 8 and paragraph 12's quotation of Ranka paragraph 29, physical 5 and 12).

The judgment reviews the competing High Court lines rather than treating all of them as interpretations of the same instrument. Pithwa Engineering Works, Madhukar K. Inamdar, Ashok Kumar Manibhai Patel and P.S. Jain supported application of enhanced limits to pending matters in the circular settings discussed. Varindera Construction, Navbharat Explosives, Kodanand Tea Estates and John L. Chackola represented the prospective-only line. Several of those decisions concerned earlier instructions or, in John L. Chackola, wealth tax. Their facts and different statutory settings are not the tax merits of these appeals (paragraphs 14-18, physical 14-15).

The decisive authority was the three-judge order of 29 August 2011 in CIT Central-III v. Surya Herbal Ltd., reproduced in paragraph 19. The Court read that order as leaving pending-matter application intact subject to two caveats: the instruction should not be applied automatically where the matter has a cascading effect, or where a common principle is involved in a subsequent group or large number of matters. Revenue must bring those circumstances to the High Court's attention. Surya Herbal's two-week liberty to approach the High Court belongs to that earlier order; this judgment does not create a fresh universal two-week filing period (paragraphs 19-20, physical 15-16).

Suman Dhamija, a later two-judge order adopting prospective application, had not been shown the three-judge Surya Herbal order. Gemini Distilleries, Civil Appeal 16815/2017 decided on 12 October 2017, had followed Suman Dhamija, whereas Century Park followed

02 DISCUSSION BY THE HON'BLE COURT

the Surya Herbal line. The Court held that the three-judge position continued to govern and criticised the Department's failure to bring it to the later benches' attention. It also relied on Suchitra Components and Mysore Electricals for the beneficial-retrospective/oppressive-prospective circular principle. Those were excise authorities used for interpretation, not independent income-tax merits holdings in this case (paragraphs 21-25, physical 16-17).

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

03 JUDICIAL DECISION

Instruction No. 3 of 2011 applies to pending matters, subject to the two Surya Herbal caveats concerning cascading effect and common principles affecting groups or large numbers of matters. Revenue's Civil Appeals 19650 and 19651 of 2017 were dismissed in those terms. The judgment neither determines their underlying assessments nor orders a merits remand. It states no separate costs direction (paragraphs 25-26, physical 16-17/SCR 1133-1134).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Respondent assessees on the pending-appeal instruction issue; underlying tax merits not adjudicated

Both Revenue appeals dismissed in the stated terms, subject to the Surya Herbal caveats

Reasoned law-declaring applicability decision under the section 268A tax-litigation scheme; no underlying assessment merits determination

Historical Instruction 3/2011 and the specific pending-appeal controversy. No present monetary threshold, automatic withdrawal despite exceptions, reopening of all concluded cases, or universal retrospectivity of every later circular is established.

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

05 AKHB REVIEW POINT

This is useful authority for the treatment of pending departmental appeals and for identifying the controlling larger-bench order. A case-specific review still needs the applicable circular, correct computation of tax effect, any qualifying exception, and the group or cascading consequences. The Court's insistence on bringing those matters to the High Court prevents the headline pending-appeal rule from becoming an automatic disposal formula. A low-effect dismissal also does not settle the underlying tax proposition for every later year.

The historical Rs. 10 lakh figure should not be displayed as current law. The later CBDT Circular 09/2024, dated 17 September 2024, was read in full from an unchanged two-page official PDF, including both images. It revises filing limits, expressly preserves the exceptions in Circular 5/2024 paragraphs 3.1 and 3.2, requires a merits-based filing decision even above the limit, and extends its modification to pending appeals (paragraphs 2-5). The incorporated Circular 5/2024 exceptions were not independently read for this note. This is a verified later-instrument check, not certification that these are the complete rules presently governing a particular appeal. The PDF's printed heading is dated 17 September, while a handwritten endorsement on page 2 reads "Issued 18/09/24"; paragraph 5 refers to the date of issue. This note does not independently resolve that distinction.

Bounded official-domain and adverse-term searches did not yield a later primary ruling reversing this judgment's specific holding. That result is limited by indexing and retrieval and is not a citator clearance. The earlier cases quoted in this judgment were not independently read in full for this note. Comprehensive later treatment, current-law applicability and the 1961-to-2025 statutory mapping remain not_verified.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 19650 of 2017

Outcome: Revenue appeal dismissed under common paragraph 26, with paragraph 25 caveats; no separate underlying-tax merits or costs determination stated

2.

Case number: Civil Appeal No. 19651 of 2017

Outcome: Revenue appeal dismissed under common paragraph 26, with paragraph 25 caveats; no separate underlying-tax merits or costs determination stated

Costs: No express costs direction in the primary judgment

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Appellate recital; paragraphs 1-7: proceedings and actual instruction issue

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 5; 12

Paragraphs: Paragraph 8 and adopted Ranka paragraph 29 within paragraph 12: tax effect, statutory recognition, exceptions, later-year protection

Source role: judicial text

3.

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11; 12; 13; 14

Paragraphs: Paragraphs 12-13: expressly approved Ranka reasoning and pending-case policy

Source role: judicial text

4.

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17

Paragraphs: Paragraphs 19-26: Surya caveats, competing Supreme Court orders, final rule and dismissal

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Actual reasoned applicability ruling on a departmental tax-litigation instruction given statutory recognition under section 268A. It determines the Department's pursuit of pending appeals, not the assessee's underlying taxable income.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sanjay Kishan Kaul, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Type: primary judgment internal relationships

Status: verified within primary

Scope: Surya Herbal, Suman Dhamija, Gemini Distilleries, Century Park and general circular authorities as discussed at primary paragraphs 19-25; no independent full-source review of those decisions.

2.

Type: targeted later adverse search

Status: bounded search only

Checked at: 2026-10-05T18:01:48.208596+00:00

Queries: site:sci.gov.in "S.R.M.B." "Dairy"; "S.R.M.B." "Supreme Court" overruled; site:api.sci.gov.in "S.R.M.B." "Dairy" -"23-Nov-2017"; "S.R.M.B." "2020" site:api.sci.gov.in/supremecourt

Result: No later adverse primary authority was identified in the returned results. This does not establish no adverse treatment exists.

3.

Type: later circular version check

Status: full official circular read bounded relationship

Checked at: 2026-10-05T18:05:10.743164+00:00

Title: CBDT Circular No. 09/2024, dated 17 September 2024

Url: [Open cited source](#)

Read bounds: Entire two-page circular text and both images read: heading/date, paragraphs 1-8, monetary table, signature/copy list and handwritten "Issued 18/09/24" endorsement. Not a judgment. Circular 5/2024, incorporated by reference for exceptions, was not independently read.

Finding: Circular 09/2024 revises Circular 5/2024 limits, preserves its paragraphs 3.1 and 3.2 exceptions, requires merits-based filing and includes pending appeals. No independent read of the incorporated exception instrument or complete later history. Printed 17 September date and handwritten "Issued 18/09/24" endorsement preserved without independently resolving date-of-issue meaning.

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Instruction No. 3 of 2011 dated 9 February 2011, including clause 11 and preserved exceptions as discussed in the judgment; Section 268A(2) and (3), protection against precedential/estoppel effects of non-appeal, through the adopted Ranka & Ranka discussion; Constitution of India, Article 136, appellate context; National Litigation Policy, policy context

SOURCE & VERIFICATION

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

Identified source rendition: 17 PDF pages; SHA-256 df49dbc66c85d7892973684f82399b87ee6531701d68b7f6378d24e4ac473e8b. Original bytes preserved.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: False; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

Printed SCR heading, date, bench, proceedings and material judicial pages checked against source images. Catalogue INSC identifier not independently authenticated. Pinpoints use this rendition's physical pages and printed judicial paragraph numbering.

The heading and headnote are editorial; eligibility and holding are grounded in judicial paragraphs 5-8 and 19-26.; The report gives no assessment year, transaction merits, separate companion title or exact tax-effect amount for either appeal.; Instruction 3/2011 is called both an instruction and a circular in the report. Preserve its date and number rather than infer that it is a current circular.; The long Ranka & Ranka quotation contains earlier historical limits and an inconsistent sentence about beneficial circulars at physical 10. The operative primary paragraph 24 at physical 16 expressly states beneficial-retrospective/oppressive-prospective treatment; the note does not silently promote the inconsistent quoted line.; Surya Herbal's two-week liberty is an earlier case-specific direction. No equivalent fresh direction or costs order appears in paragraph 26.; Historical exceptions and protective section 268A discussion must accompany the retrospective-application statement. No fresh full reading of Surya Herbal, Suman Dhamija, Gemini Distilleries, Century Park or the other quoted decisions is claimed.; Circular 09/2024 was fully read from a distinct successful official document-manager PDF after the legacy URL returned 404. Its incorporated Circular 5/2024 exceptions were not separately read. Printed 17 September date and page 2 handwritten "Issued 18/09/24" endorsement are distinct; paragraph 5 refers to date of issue. No present monetary threshold or exhaustive later-instrument certificate.

No assessment year is stated in this report. Dates and monetary limits in cited authorities are not individual assessment facts for these appeals.

The report lists lead Civil Appeal 19650/2017 and companion 19651/2017. The recital identifies Delhi High Court's order dated 19 April 2011 in ITA 44/2005 for the lead; no separate companion title, High Court number, assessment year or tax-effect amount is supplied. Both receive the common paragraph 26 disposal.

STATUTORY SCOPE

No Income-tax Act, 1961 to Income-tax Act, 2025 crosswalk or automatic carryover. Complete amendment history, commencement, savings and present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Only bounded checks listed below were performed. A limited search not locating an adverse decision does not establish that none exists or certify that the rule remains applicable.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 17](#)

SHA-256: df49dbc66c85d7892973684f82399b87ee6531701d68b7f6378d24e4ac473e8b

[later departmental circular - PDF pages: 2](#)

SHA-256: 2a6303f84212b2900a61917275a4fa7d32ca8ad0f170944253256bcfed8cb5f6

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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