

Commissioner of Income Tax II v. M/s Modipon Ltd.

Civil Appeal No. 19763 of 2017 / Civil Appeal No. 19767 of 2017 / Civil Appeal No. 19768 of 2017 / Civil Appeal No. 19769 of 2017 / Civil Appeal No. 19770 of 2017

[2017] 11 S.C.R. 84 | 2017-11-24

Whether advance payment of excise duty into the statutory Personal Ledger Account qualified as actual payment deductible under section 43B, although adjustment against particular clearances took place later; and whether the Revenue could pursue that issue despite its earlier acceptance of the practice and other High Court decisions.

43B

Two-judge bench | Ranjan Gogoi, J. | Navin Sinha, J.

Assessment years: 1993-1994, 1996-1997, 1997-1998, 1998-1999

Source renditions differ; original merits bench preserved

Original paragraphs 11-12 misidentify section 43B as a Central Excise Act provision; original paragraph 3 and the reported rendition identify the Income-tax Act. Both source PDFs remain unchanged. The SCR cover says it incorporates an order of 23 February 2018 by a bench including R. Banumathi. That bench is not substituted for the original merits bench of Ranjan Gogoi and Navin Sinha. The separate 2018 order has not been independently reviewed. Paragraph 13 affirms Delhi and Calcutta High Court orders; the favourable Delhi and Punjab & Haryana cases cited in argument are a different group. The headnote's reference to Punjab & Haryana is not substituted for the operative disposition.

01 FACTS OF THE CASE

Five Revenue appeals raised the same question. Four concerned Modipon for assessment years 1993-1994, 1996-1997, 1997-1998 and 1998-1999; the fifth concerned Paharpur Cooling Towers for 1996-1997. Modipon claimed deduction for its year-end PLA balance and added the same amount back to taxable income in the succeeding accounting year to avoid double deduction. The Revenue had accepted that practice from AY 1984-1985 to AY 1998-1999 apart from the four disputed years. The Revenue argued that a deposit became actual duty payment only when debited on removal, and relied on the possibilities of withdrawal/refund and remission. The assessees relied on the mandatory deposit scheme, restricted access to the money, the consistent accounting practice and favourable High Court decisions. The assertion that the tax effect was nil appears in the assessee submission; it is not used as a substitute for the Court's merits reasoning.

Source: [reported rendition / paragraphs 1-4 / PDF pages 3, 4 / judgment](#); [official signed judgment with ROP / paragraphs 1-4 / PDF pages 1, 2, 3 / judgment](#); [reported rendition / paragraphs 5-7 / PDF pages 4, 5, 6 / party submissions](#); [official signed judgment with ROP / paragraphs 5-7 / PDF pages 3, 4, 5, 6, 7, 8 / party submissions](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the proposition that prior Revenue acceptance alone foreclosed adjudication. A substantial legal question, public-interest issue or one capable of recurring could still be entertained; it therefore examined the merits (paragraph 8).

Under the historical Central Excise Rules, a PLA deposit was a statutory requirement. Deposited amounts were credited to the Revenue and adjusted against duty on removal; balances remained for later clearances. Withdrawal required an application to the Commissioner and recorded reasons, while rule 173G imposed close scrutiny. In that setting the assessee no longer had dominion over the deposited money (paragraph 9). The Court drew an analogy with Pandavapura Sahakara Sakkare Karkhane and Nizam Sugar Factory, whose restricted molasses-storage funds were beyond the assessee's control, and expressly regarded those holdings as correct (paragraph 10).

Section 43B was introduced to prevent a deduction resting on accrual or book entries without payment to the State. Giving the deduction upon advance statutory excise deposit achieved that object even though later clearances triggered corresponding adjustments. This reasoning, together with the consistent practice, final favourable High Court decisions and absence of any contrary High Court view brought to the Court, supported treating the deposits as actual payment (paragraphs 11-12). The holding is grounded in the statutory PLA arrangement; the rejected preliminary consistency objection does not become a universal bar on Revenue appeals.

Source-version caution: original paragraphs 11-12 describe section 43B as belonging to the Central Excise Act, although paragraph 3 expressly identifies the Income-tax Act, 1961. The reported rendition prints Income Tax Act in both places. Its cover footnote says it incorporates a subsequent order dated 23 February 2018 by Ranjan Gogoi and R. Banumathi, JJ. That separate later order has not been independently inspected; the reported note and observed textual difference are preserved without silently altering either PDF.

Source: [reported rendition / paragraphs 8-12 / PDF pages 6, 7, 8 / judgment](#); [official signed judgment with ROP / paragraphs 8-12 / PDF pages 9, 10, 11, 12, 13, 14 / judgment](#); [reported rendition / paragraphs Cover footnote / PDF pages 1 / reporter version note](#)

03 JUDICIAL DECISION

The Court dismissed all five appeals and affirmed the impugned orders of the Delhi and Calcutta High Courts. The advance PLA excise-duty deposits qualified as actual payment for the section 43B deduction in these appeals. No remand or fresh numerical computation was directed. The official ROP confirms leave was granted and the appeals dismissed in terms of the signed reportable judgment.

Source: [reported rendition / paragraphs 12-13 / PDF pages 7, 8 / judgment](#); [official signed judgment with ROP / paragraphs 12-13 / PDF pages 14, 15 / judgment](#); [official signed judgment with ROP / paragraphs ROP disposition / PDF pages 16 / ROP](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee, Modipon Ltd. and Paharpur Cooling Towers Ltd.

Five Revenue appeals dismissed; impugned Delhi and Calcutta High Court orders affirmed

Section 43B actual-payment question decided on merits; preliminary attempt to exclude Revenue solely for prior acceptance rejected

Historical statutory excise PLA deposits and the features examined by the Court. No automatic rule for every refundable deposit, modern tax account, statutory advance or later legislation.

Source: [reported rendition / paragraphs 13 / PDF pages 8 / judgment](#); [official signed judgment with ROP / paragraphs 13 and ROP / PDF pages 15, 16 / judgment and ROP](#)

05 AKHB REVIEW POINT

For an advance-duty deduction, establish the actual deposit, governing statutory requirement, account restrictions, permitted use and withdrawal conditions. Link the balance and later debit or add-back so that the same amount is not deducted twice. Modipon supports the historical PLA payment treatment, not a deduction based only on an accrual entry or a voluntary deposit still freely controlled by the taxpayer. Prior acceptance helped the case on its facts but did not prevent the Court from considering a recurring question of law. Keep the original and the corrected reported rendition linked: the original's Central Excise Act references in paragraphs 11-12 must not create an erroneous statutory entry for section 43B. Verify the governing period, later judicial treatment and any changed account mechanism before applying the reasoning. No automatic mapping to the Income-tax Act, 2025 is made.

Source: [reported rendition / paragraphs 4; 8-12 / PDF pages 4, 6, 7, 8 / judgment](#); [official signed judgment with ROP / paragraphs 3; 9; 11-12 / PDF pages 2, 10, 11, 13, 14 / judgment](#)

ASSESSMENT-YEAR DISTINCTIONS

1.

Assessee: M/s Modipon Ltd.

Assessment years: 1993-1994; 1996-1997; 1997-1998; 1998-1999

Source paragraph: 2

2.

Assessee: Paharpur Cooling Towers Ltd.

Assessment years: 1996-1997

Source paragraph: 2

PROVISION-SPECIFIC SCOPE

1.

Provision: Income-tax Act, 1961, section 43B

Role: Operative deduction provision; advance PLA excise-duty deposits treated as actual payment under the historical scheme

Paragraphs: 3-4; 8-12

Reported pdf pages: 3; 4; 6; 7; 8

Official pdf pages: 2; 3; 9; 10; 11; 12; 13; 14

2.

Provision: Central Excise Act, 1944, section 3

Role: Levy-on-manufacture context advanced in the assessee submission; not the source of section 43B

Paragraphs: 7

Reported pdf pages: 5; 6

Official pdf pages: 7; 8

3.

Provision: Central Excise Rules, 1944, rule 173G

Role: Mandatory PLA deposits, restricted withdrawal and controlled adjustment underpin the actual-payment holding

Paragraphs: 7; 9

Reported pdf pages: 5; 6; 7

Official pdf pages: 7; 8; 10; 11

4.

Provision: Central Excise Rules, 1944, rule 21

Role: Revenue submission on possible remission before removal; not the operative income-tax provision

Paragraphs: 5

Reported pdf pages: 4

Official pdf pages: 4; 5

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ranjan Gogoi, J.

OTHER GOVERNING ACTS

Central Excise Act, 1944; Central Excise Rules, 1944

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 8 PDF pages; SHA-256

171d7b8839677ddd58dc7dcbf13063fc5e82fe2ae9404abb5d48fc941651c457. Original bytes preserved. Physical PDF page 3 (SCR page 86), beginning at Ranjan Gogoi, J., paragraph 1, through physical page 8 (SCR page 91), paragraph 13. Pages 1-2 and the upper part of page 3 are editorial headnote, references and preface; final Appeals dismissed line and credit are editorial.

Open cited source rendition

The visible caption is Modipon. MODJPON appears in the frozen mirror metadata/extracted text; no new duplicate record is created.

Original paragraphs 11-12 misidentify section 43B as a Central Excise Act provision; original paragraph 3 and the reported rendition identify the Income-tax Act. Both source PDFs remain unchanged.

The SCR cover says it incorporates an order of 23 February 2018 by a bench including R. Banumathi. That bench is not substituted for the original merits bench of Ranjan Gogoi and Navin Sinha. The separate 2018 order has not been independently reviewed.

Paragraph 8 permits merits adjudication despite previous acceptance. The assessee's revenue-neutrality and consistency arguments are not presented as an independent jurisdictional prohibition.

Paragraph 13 affirms Delhi and Calcutta High Court orders; the favourable Delhi and Punjab & Haryana cases cited in argument are a different group. The headnote's reference to Punjab & Haryana is not substituted for the operative disposition.

The five disputed appeals and two assessees are preserved, but the source does not map individual assessment years to particular appeal numbers.

The reported edition has editorial material before and after the bounded judicial text. No neighbouring decision appears.

The source-index neutral citation remains metadata-only; no unprinted citation is certified.

SCR citation verified visually on the reported cover. The frozen source index also records 2017 INSC 1140; this is not printed in either inspected PDF and is not represented as independently verified.

The listed years are the disputed assessments expressly identified in paragraph 2. AY 1984-1985 through AY 1998-1999 in paragraphs 4 and 6 describe the longer accounting-practice history, not additional appeals adjudicated here.

Original cover links the five appeals respectively to SLP(C) 29816/2011, 16633/2012, 15939/2012, 29817/2011 and 31209/2011. Paragraph 2 identifies four Modipon appeals and one Paharpur Cooling Towers appeal but does not individually map each assessment year to an appeal number.

STATUTORY SCOPE

Historical provisions as discussed in the reviewed decision; no independent consolidated current-statute audit

No automatic mapping to the Income-tax Act, 2025 or certification of current compliance requirements.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. Any specific cited-decision relationship or reported correction history identified below is a bounded source observation, not a citator status certificate.

IDENTIFIED SOURCE LINKS

reported rendition - Physical PDF page 1 / SCR page 84 - PDF pages: 8

SHA-256: 171d7b8839677ddd58dc7dcbf13063fc5e82fe2ae9404abb5d48fc941651c457

[official signed judgment with ROP - PDF pages: 16](#)

SHA-256: 6a021a0d115cd63696e03e59773d1f44017d21882d4156c750d8edce18b1ff7a

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