

Commissioner of Income Tax 5, Mumbai v. M/s Essar Teleholdings Ltd. through its Manager

Civil Appeal No. 2165 of 2012 and connected proceedings (full list below)

[2018] 1 SCR 502 | 2018-01-31

Whether Rule 8D could operate retrospectively for pre-AY 2008-09 assessments, including the lead AY 2003-04, merely because section 14A had retrospective operation or because the rule supplied computational machinery.

14A(1) | 14A(2) | 14A(3) | 14A proviso | 10(23G)

Two-judge bench | A. K. Sikri, J. | Ashok Bhushan, J.

Assessment years: 2003-04

Historical Rule 8D cut-off; source date inconsistencies

Essar holds Rule 8D inapplicable before AY 2008-09. Incidental 2006 references within this rendition, and Maxopp's later 2007 shorthand, do not replace that express holding. Excluding Rule 8D does not automatically eliminate pre-rule section 14A disallowance. No present-day formula or rate is certified.

[Read the reviewed 2018-02-12 judgment; paragraphs 43 / PDF pages 31 / judicial text](#)

01 FACTS OF THE CASE

For AY 2003-04, the lead assessee filed a return on 1 December 2003 declaring a loss of Rs. 69,92,67,527. The Assessing Officer's 27 March 2006 order considered both taxable and non-taxable dividend income and disallowed Rs. 26 crore of proportionate interest said to relate to investments eligible for section 10(23G) exemption. An appeal was partly allowed on 5 March 2009. The Tribunal then held Rule 8D prospective, set aside the Commissioner (Appeals)' order and restored the issue to the Assessing Officer for de novo adjudication without Rule 8D. The Bombay High Court dismissed the Revenue's appeal on 12 September 2011, following its 2010 Godrej & Boyce ruling (paragraphs 4-5).

The Supreme Court took this batch only on Rule 8D's temporal application. Although paragraph 2 reproduces the earlier grouped question concerning section 14A(2)/(3) and pending assessments, paragraphs 6-7 expressly narrow the question pressed to Rule 8D's prospectivity. The remaining civil appeals were decided on that common question; their distinct facts and years were not individually recited (paragraphs 1-3, 6-7).

Source: [reported judgment / paragraphs 1-7 / PDF pages 7, 8 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court examined the statutory sequence rather than treating every computational rule as automatically retrospective. Original section 14A had been inserted by the Finance Act 2001 with effect from 1 April 1962; the Finance Act 2002 proviso restricted reopening/enhancement by relying on that section for the specified earlier assessment years. Sections 14A(2) and (3), the reproduced Finance Bill memorandum and Circular 14/2006 identified application from AY 2007-08. Rule 8D was introduced on 24 March 2008 as a new prescribed method, applicable from AY 2008-09 (paragraphs 14-21, 28-35). The source contains inconsistent incidental 2006 references, separately flagged below; the repeated statutory excerpts and paragraph 50's express Rule 8D cut-off govern this note.

Applying the presumption against retrospective fiscal liabilities, including Vatika Township's reasoning, the Court held that the substance, purpose and statutory scheme mattered beyond an enforcement date alone. Section 14A was workable before the prescribed rule. The new Rule 8D calculation was neither a pre-existing, familiar valuation method nor merely a clarification of existing law. Sharvan Kumar Swarup's Rule 1-BB valuation reasoning, Gold Coin's clarificatory penalty amendment and Calcutta Knitweaves' machinery-provision principle therefore did not establish retrospectivity here (paragraphs 23-27, 33-44).

The Court also considered the replacement of Rule 8D(2)'s method with effect from 2 June 2016. Treating the earlier and replacement methods as universally retrospective would create competing computations. The absence of retrospective language, the explanatory materials and that successive-method structure supported prospective operation (paragraphs 45-48). In paragraph 49, the Court explained that the 2017 Godrej & Boyce judgment had expressly left the temporal question for the Revenue appeals, which were now being decided.

Source: [reported judgment / paragraphs 14-24 / PDF pages 10, 11, 12, 13, 14, 15 / judicial text](#); [reported judgment / paragraphs 28-48 / PDF pages 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 / judicial text](#)

03 JUDICIAL DECISION

Rule 8D was held prospective and could not be applied to any assessment year before AY 2008-09. The Bombay High Court's dismissal of the lead appeal was sustained, and every Revenue appeal in the batch was dismissed (paragraphs 50-51). The Court did not itself determine the historical disallowance amount or erase section 14A for earlier years.

Source: [reported judgment / paragraphs 49-51 / PDF pages 31 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the Rule 8D temporal issue

All 87 listed civil appeals filed by the Revenue dismissed; lead High Court disposition sustained

Final legal ruling on Rule 8D prospectivity; the lead historical section 14A quantum remains within the Tribunal's de novo adjudication direction without Rule 8D

No final determination that the entire Rs. 26 crore lead disallowance must disappear. The note does not extend the lead factual record or assessment year to every companion, decide every section 14A question, or certify any present-day rule/formula/rate.

Source: [reported judgment / paragraphs 5; 50-51 / PDF pages 8, 31 / judicial text](#)

05 AKHB REVIEW POINT

For a historical section 14A review, first separate the assessment year, the governing statutory version, the availability of a prescribed computational method and the accounts-based factual grounds for any disallowance. Essar removes Rule 8D from pre-AY 2008-09 computation; it does not convert that exclusion into an automatic zero-disallowance rule. Preserve the Tribunal's remand terms and test the actual pre-rule computation separately.

The narrow relationship with Godrej & Boyce and Maxopp is useful: Godrej reserved the temporal issue, Essar decided it, and Maxopp later relied on Essar for its pre-rule Revenue appeals. The checked Maxopp passage contains an inconsistent 2007 reference, so it should not replace Essar's explicit AY 2008-09 holding. Neither the judgment's reproduction of the 2008 method nor its discussion of the 2016 substitution certifies the formula or rate applicable today.

Source: [reported judgment / paragraphs 5; 32-39; 45-51 / PDF pages 8, 23, 24, 25, 29, 30, 31 / judicial text](#); [reported judgment / paragraphs 34-40 / PDF pages 26, 27, 28 / judicial text](#); [reported judgment / paragraphs 43 / PDF pages 31 / judicial text](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 2165 of 2012 / Civil Appeal No. 5101 of 2012 / Civil Appeal No. 7395 of 2012 / Civil Appeal No. 7394 of 2012 / Civil Appeal No. 7797 of 2012 / Civil Appeal No. 7426 of 2012 / Civil Appeal No. 8195 of 2012 / Civil Appeal No. 8800 of 2012 / Civil Appeal No. 1429 of 2018 / Civil Appeal No. 1430 of 2018 / Civil Appeal No. 1431 of 2018 / Civil Appeal No. 1432 of 2018 / Civil Appeal No. 1433 of 2018 / Civil Appeal No. 1434 of 2018 / Civil Appeal No. 1435 of 2018 / Civil Appeal No. 1436 of 2018 / Civil Appeal No. 1437 of 2018 / Civil Appeal No. 1438 of 2018 / Civil Appeal No. 1439 of 2018 / Civil Appeal No. 1440 of 2018 / Civil Appeal No. 1441 of 2018 / Civil Appeal No. 1442 of 2018 / Civil Appeal No. 1443 of 2018 / Civil Appeal No. 1444 of 2018 / Civil Appeal No. 1445 of 2018 / Civil Appeal No. 1446 of 2018 / Civil Appeal No. 1460 of 2018 / Civil Appeal No. 1461 of 2018 / Civil Appeal No. 117 of 2015 / Civil Appeal No. 118 of 2015 / Civil Appeal No. 6727 of 2015 / Civil Appeal No. 119 of 2015 / Civil Appeal No. 116 of 2015 / Civil Appeal No. 194 of 2015 / Civil Appeal No. 114 of 2015 / Civil Appeal No. 120 of 2015 / Civil Appeal No. 121 of 2015 / Civil Appeal No. 122 of 2015 / Civil Appeal No. 128 of 2015 / Civil Appeal No. 113 of 2015 / Civil Appeal No. 126 of 2015 / Civil Appeal No. 124 of 2015 / Civil Appeal No. 129 of 2015 / Civil Appeal No. 125 of 2015 / Civil Appeal No. 127 of 2015 / Civil Appeal No. 3355 of 2015 / Civil Appeal No. 3359 of 2015 / Civil Appeal No. 3781 of 2015 / Civil Appeal No. 3358 of 2015 / Civil Appeal No. 6294 of 2015 / Civil Appeal No. 7892 of 2015 / Civil Appeal No. 9251 of 2015 / Civil Appeal No. 9252 of 2015 / Civil Appeal No. 14525 of 2015 / Civil Appeal No. 381 of 2013 / Civil Appeal No. 3273 of 2013 / Civil Appeal No. 1101 of 2013 / Civil Appeal No. 6313 of 2013 / Civil Appeal No. 6733 of 2013 / Civil Appeal No. 6191 of 2013 / Civil Appeal No. 8921 of 2013 / Civil Appeal No. 6192 of 2013 / Civil Appeal No. 7167 of 2013 / Civil Appeal No. 8376 of 2013 / Civil Appeal No. 7172 of 2013 / Civil Appeal No. 7170 of 2013 / Civil Appeal No. 9183 of 2013 / Civil Appeal No. 8341 of 2013 / Civil Appeal No. 7168 of 2013 / Civil Appeal No. 8256 of 2013 / Civil Appeal No. 7171 of 2013 / Civil Appeal No. 7974 of 2013 / Civil Appeal No. 8342 of 2013 / Civil Appeal No. 7173 of 2013 / Civil Appeal No. 8343 of 2013 / Civil Appeal No. 8933 of 2013 / Civil Appeal No. 8909 of 2013 / Civil Appeal No. 9832 of 2013 / Civil Appeal No. 9833 of 2013 / Civil Appeal No. 9184 of 2013 / Civil Appeal No. 8178 of 2016 / Civil Appeal No. 8177 of 2016 / Civil Appeal No. 3279 of 2016 / Civil Appeal No. 5044 of 2016 / Civil Appeal No. 5417 of 2016 / Civil Appeal No. 6019 of 2016 / Civil Appeal No. 4539 of 2017

DETAILED DISPOSITION AND CONNECTED GROUPS

Appeal groups

1.

Case numbers: Civil Appeal No. 2165 of 2012; Civil Appeal No. 5101 of 2012; Civil Appeal No. 7395 of 2012; Civil Appeal No. 7394 of 2012; Civil Appeal No. 7797 of 2012; Civil Appeal No. 7426 of 2012; Civil Appeal No. 8195 of 2012; Civil Appeal No. 8800 of 2012

Disposition: Revenue appeals dismissed on the common temporal issue

Source pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 1; 6

Paragraphs: Cover/WITH list

Source role: reported metadata

2.

Source url: [Open cited source](#)

Pdf pages: 31

Paragraphs: 50-51

Source role: judicial text

2.

Case numbers: Civil Appeal No. 1429 of 2018; Civil Appeal No. 1430 of 2018; Civil Appeal No. 1431 of 2018; Civil Appeal No. 1432 of 2018; Civil Appeal No. 1433 of 2018; Civil Appeal No. 1434 of 2018; Civil Appeal No. 1435 of 2018; Civil Appeal No. 1436 of 2018; Civil Appeal No. 1437 of 2018; Civil Appeal No. 1438 of 2018; Civil Appeal No. 1439 of 2018; Civil Appeal No. 1440 of 2018; Civil Appeal No. 1441 of 2018; Civil Appeal No. 1442 of 2018; Civil Appeal No. 1443 of 2018; Civil Appeal No. 1444 of 2018; Civil Appeal No. 1445 of 2018; Civil Appeal No. 1446 of 2018; Civil Appeal No. 1460 of 2018; Civil Appeal No. 1461 of 2018

Disposition: Revenue appeals dismissed on the common temporal issue

Source pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Cover/WITH list

Source role: reported metadata

2.

Source url: [Open cited source](#)

Pdf pages: 31

Paragraphs: 50-51

Source role: judicial text

3.

Case numbers: Civil Appeal No. 117 of 2015; Civil Appeal No. 118 of 2015; Civil Appeal No. 6727 of 2015; Civil Appeal No. 119 of 2015; Civil Appeal No. 116 of 2015; Civil Appeal No. 194 of 2015; Civil Appeal No. 114 of 2015; Civil Appeal No. 120 of 2015; Civil Appeal No. 121 of 2015; Civil Appeal No. 122 of 2015; Civil Appeal No. 128 of 2015; Civil Appeal No. 113 of 2015; Civil Appeal No. 126 of 2015; Civil Appeal No. 124 of 2015; Civil Appeal No. 129 of 2015; Civil Appeal No. 125 of 2015; Civil Appeal No. 127 of 2015; Civil Appeal No. 3355 of 2015; Civil Appeal No. 3359 of 2015; Civil Appeal No. 3781 of 2015; Civil Appeal No. 3358 of 2015; Civil Appeal No. 6294 of 2015; Civil Appeal No. 7892 of 2015; Civil Appeal No. 9251 of 2015; Civil Appeal No. 9252 of 2015; Civil Appeal No. 14525 of 2015

Disposition: Revenue appeals dismissed on the common temporal issue

Source pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Cover/WITH list

Source role: reported metadata

2.

Source url: [Open cited source](#)

Pdf pages: 31

Paragraphs: 50-51

Source role: judicial text

4.

Case numbers: Civil Appeal No. 381 of 2013; Civil Appeal No. 3273 of 2013; Civil Appeal No. 1101 of 2013; Civil Appeal No. 6313 of 2013; Civil Appeal No. 6733 of 2013; Civil Appeal No. 6191 of 2013; Civil Appeal No. 8921 of 2013; Civil Appeal No. 6192 of 2013; Civil Appeal No. 7167 of 2013; Civil Appeal No. 8376 of 2013; Civil Appeal No. 7172 of 2013; Civil Appeal No. 7170 of 2013; Civil Appeal No. 9183 of 2013; Civil Appeal No. 8341 of 2013; Civil Appeal No. 7168 of 2013; Civil Appeal No. 8256 of 2013; Civil Appeal No. 7171 of 2013; Civil Appeal No. 7974 of 2013; Civil Appeal No. 8342 of 2013; Civil Appeal No. 7173 of 2013; Civil Appeal No. 8343 of 2013; Civil Appeal No. 8933 of 2013; Civil Appeal No. 8909 of 2013; Civil Appeal No. 9832 of 2013; Civil Appeal No. 9833 of 2013; Civil Appeal No. 9184 of 2013

Disposition: Revenue appeals dismissed on the common temporal issue

Source pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Cover/WITH list

Source role: reported metadata

2.

Source url: [Open cited source](#)

Pdf pages: 31

Paragraphs: 50-51

Source role: judicial text

5.

Case numbers: Civil Appeal No. 8178 of 2016; Civil Appeal No. 8177 of 2016; Civil Appeal No. 3279 of 2016; Civil Appeal No. 5044 of 2016; Civil Appeal No. 5417 of 2016; Civil Appeal No. 6019 of 2016

Disposition: Revenue appeals dismissed on the common temporal issue

Source pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Cover/WITH list

Source role: reported metadata

2.

Source url: [Open cited source](#)

Pdf pages: 31

Paragraphs: 50-51

Source role: judicial text

6.

Case numbers: Civil Appeal No. 4539 of 2017

Disposition: Revenue appeals dismissed on the common temporal issue

Source pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Cover/WITH list

Source role: reported metadata

2.

Source url: [Open cited source](#)

Pdf pages: 31

Paragraphs: 50-51

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

143(2): lead-assessment notice; 147 and 154: limits in the historical section 14A proviso, reproduced in paragraphs 16-17 and discussed in paragraph 35; Income-tax Rules, 1962, Rule 8D as introduced by the Fifth Amendment Rules, 2008 with notification dated 24 March 2008; Income-tax (Fourteenth Amendment) Rules, 2016: substitution of Rule 8D(2) with effect from 2 June 2016, discussed as a reason supporting prospectivity; Finance Acts 2001, 2002 and 2006; CBDT Circular 11/2001 dated 23 July 2001 and Circular 14/2006 dated 28 December 2006, as reproduced/discussed in this judgment; Sections 113, 171 and 271(1)(c) occur in cited precedent and are not independently decided tax issues in this appeal

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ashok Bhushan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Case id: sc-2018-02-12-maxopp-investment

Decision date: 2018-02-12

Relationship: expressly relied on for prospectivity

Scope: Maxopp paragraph 43 expressly applies Essar's Rule 8D prospectivity to dismiss specified pre-rule Revenue appeals without considering other issues. Only that relationship is verified; no comprehensive later-treatment audit.

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 31

Paragraphs: 43

Source role: judicial text

DIFFERENT STATUTORY QUESTIONS IN THE COMPARED DECISIONS

1.

Case id: sc-2017-05-08-godrej-boyce-section14a

Classification: reserved question subsequently decided

Finding: Godrej paragraph 36 leaves the temporal issue to pending Revenue appeals; Essar paragraphs 49-50 decides Rule 8D prospectivity.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 31 PDF pages; SHA-256

683136abaf6b132ae086772b054aede9f910ba13bb455f2dbd0e7c2501357500. Original bytes preserved.

Editorial headnote/case references on physical pages 1-5; jurisdiction and full companion list on pages 5-6; complete judicial paragraphs 1-51 on pages 7-31 (printed SCR 508-532). No neighbouring judgment.

Open cited source rendition

Paragraph 33 (physical p23) gives 1 April 2006 while quoting the Finance Act's general commencement clause; paragraph 36 (p24) says AY 2006-07. These conflict with the repeatedly reproduced 1 April 2007/AY 2007-08 statements in paragraphs 18-20, 28 and 32. The rendered pages confirm actual source wording; the source is not silently altered. Rule 8D's operative cut-off in paragraph 50 is unequivocally AY 2008-09.

The original rule and its 2016 substituted method are historical statutory text reproduced for reasoning, not a current computation certificate.

Paragraph 2 quotes a wider grouped formulation but paragraphs 6-7 delimit the question decided to Rule 8D's temporal operation.

All listed appeals are Revenue appeals dismissed on the common question. The lead Tribunal remand is not a Supreme Court merits deletion of every disallowance.

The bounded Godrej comparison retains its paragraph 36 retrospective/non-retrospective source inconsistency, already noted in the prior review. Only its explicit reservation of the temporal issue is used here.

Maxopp paragraph 43 expressly relies on Essar, but describes the pre-rule period using 2007; the Essar AY 2008-09 holding, rather than that inconsistent shorthand, is used.

SCR citation read on the reported cover. The acquisition index also records 2018INSC79; that machine-supplied identifier is not independently printed/verified in this rendition and is not adopted as the displayed citation.

AY 2003-04 is expressly stated for the Essar lead matter in paragraph 4. Separate companion assessment years are not supplied. AY 2007-08 and AY 2008-09 are statutory-application milestones, not presumed appeal years for every companion.

The lead Civil Appeal No. 2165 of 2012 and all 86 companion civil appeals are enumerated from the reported cover/jurisdiction and WITH list. Paragraph 13 additionally identifies a submission in the appeal arising out of SLP (C) No. 16185 of 2016; this text does not map that SLP to a captioned civil-appeal number.

STATUTORY SCOPE

Historical provisions and assessment years only; no automatic mapping to the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial-treatment or current-law audit. Any specifically read cross-case relationship is identified separately and does not change this status.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 31

SHA-256: 683136abaf6b132ae086772b054aede9f910ba13bb455f2dbd0e7c2501357500

reported judgment - PDF pages: 28

SHA-256: 72acc1e75cca1692a2158371f1b79244cafc178a318bf19d7dd5f5e5064d3ce3

[reported judgment - PDF pages: 31](#)

SHA-256: 9b6655615b39601a3d24fd226c6687b73a8133e13e5d088af456d6c7050b946f

[Related note: Godrej & Boyce Manufacturing Company Limited v. Dy. Commissioner of Income-Tax & Anr.](#)

[Related note: Maxopp Investment Ltd. v. Commissioner of Income Tax, New Delhi](#)

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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