

Additional Commissioner of Income Tax v. Bharat V. Patel

Civil Appeal No. 4380 of 2018 / Civil Appeal No. 4381 of 2018

[2018] 7 SCR 1067 | 2018-04-24

Whether proceeds of the employee's 1997 redemption of stock appreciation rights were taxable under the historical perquisite or business-benefit provisions, including whether former section 17(2)(iiia), effective 1 April 2000, could operate retrospectively.

17(2)(iii) | 17(2)(iiia), historical provision | 28(iv)

Two-judge bench | R. K. Agrawal, J. | Abhay Manohar Sapre, J.

Assessment years: 1998-99

Historical SAR law and conflicting source recitals

This result concerns the 1997 SAR redemption under the then-existing law. The Court notes former section 17(2)(iiia)'s introduction and omission; the separately verified 2009 legislation later changed specified-security perquisite and acquisition-cost rules from AY 2010-11. This is not a blanket exemption for modern employee equity or cash-settled SARs, and it certifies no present-law treatment. The reported source contains a 2004/2014 High Court date conflict, differing receipt figures and inconsistent consideration wording. It also describes an unchallenged 2010 capital-gains branch. Verify the underlying orders before any numerical tax or refund conclusion; do not erase that branch from the history.

01 FACTS OF THE CASE

Bharat V. Patel was chairman and managing director of P&G India, a subsidiary of P&G USA through Richardson Vicks Inc. USA. P&G USA granted him stock appreciation rights without consideration from 1991 to 1996. Paragraph 10 records redemption on 15 October 1997 and receipt of Rs. 6,80,40,724, claimed as outside taxable income in his return for AY 1998-99 (paragraphs 3(a) and 10).

After assessment and appellate proceedings, Revenue pursued the perquisite theory under section 17(2)(iii), alternatively section 28(iv). The High Court rejected Revenue's case. The source also describes a separate assessment-effect capital-gains order and a Tribunal dismissal dated 24 September 2010 that was not further challenged. Its dates, amounts and acquisition wording are internally inconsistent; the note preserves that branch without claiming the Supreme Court reopened it or certifying the final numerical assessment (paragraphs 2-3 and 6-11).

Source: [reported judgment / paragraphs 2-3 and 6-11 / PDF pages 4, 5, 6, 7, 8 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court confined the analysis to the legal charge applicable to these receipts. Former section 17(2)(iiia), introduced by the Finance Act, 1999 from 1 April 2000 and subsequently omitted, expressly dealt with specified securities, cost and value. The 1997 transaction preceded that provision, and there was no express retrospective mandate. Revenue could not use section 17(2)(iii) to achieve the same result. The Court relied on Infosys Technologies for the requirement that the benefit actually fall within a statutory income charge and for the prospective character of the new machinery (paragraphs 9-15).

CBDT Circular No. 710 of 24 July 1995 concerned shares issued below market price. The Court distinguished the stock appreciation rights allotted here from an allotment of shares and said a circular could not introduce a tax charge absent from the statute (paragraph 16).

The alternative section 28(iv) theory also failed: the relevant benefit had to arise from business or the exercise of a profession. The receipt here arose in the employee setting and no such business/professional transaction was established. The reasoning did not turn on a general exemption for all cash benefits or all employee equity gains (paragraphs 17-18).

Source: [reported judgment / paragraphs 9-18 / PDF pages 7, 8, 9, 10, 11, 12 / judicial text](#)

03 JUDICIAL DECISION

The Court rejected Revenue's historical section 17(2)(iii), retrospective section 17(2)(iiia) and alternative section 28(iv) arguments. Both appeals were dismissed, leaving parties to bear their own costs. No fresh numerical capital-gains computation or reopening of the separately described 2010 Tribunal branch is ordered in the disposition (paragraphs 13 and 16-19).

Source: [reported judgment / paragraphs 13, 16-19 / PDF pages 9, 11, 12 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the Revenue appeals

Civil Appeal Nos. 4380 and 4381 of 2018 dismissed; parties bear their own costs

Final rejection of the historical perquisite and business-benefit grounds and retrospective use of former section 17(2)(iiia)

Confined to the stated pre-1 April 2000 SAR receipts. The source's separate capital-gains implementation branch and inconsistent recitals prevent treating this note as a certified final tax computation. No general ESOP/SAR exemption under later law is decided.

Source: [reported judgment / paragraphs 13, 16-19 / PDF pages 9, 11, 12 / judicial text](#)

05 AKHB REVIEW POINT

Identify the instrument and dates precisely: stock appreciation rights, a share allotment and an employee option are not interchangeable merely because each is employment-related. This decision addresses rights granted in 1991-1996 and redeemed in October 1997, for AY 1998-99. It should not be marketed as a continuing exemption for employee share or SAR receipts.

The Court itself records the 1999 insertion and 2000 omission of former section 17(2)(iiia). A separately checked official CBDT explanation also records the Finance (No. 2) Act, 2009 substitution of section 17(2)(vi) covering specified securities/sweat equity and the related section 49 basis amendment, applicable from AY 2010-11. That later framework is a warning to check the actual instrument and relevant-year law; it does not establish the tax treatment of every modern cash-settled SAR.

Before relying on the historical procedural outcome for a refund, assessment amount or capital-gains computation, obtain the underlying orders. The reported inconsistencies and the separate unchallenged 2010 branch must not be silently collapsed into a blanket nil-tax statement.

Source: [reported judgment / paragraphs 3\(f\)-\(h\), 10-19; editorial application / PDF pages 5, 7, 8, 9, 10, 11, 12 / judicial text; official explanatory circular / paragraphs 42.2\(a\), 42.3-42.5 / PDF pages 44 / official statutory explanation](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Former section 17(2)(iiia) retrospectivity and section 17(2)(iii) fallback

Result: No retrospective extension to the 1997 transaction; section 17(2)(iii) argument rejected

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 12

Paragraphs: 12-15 and 18

Source role: judicial text

2.

Issue: CBDT Circular No. 710

Result: Shares-at-discount circular distinguished from SAR allotment; circular cannot create missing statutory charge

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: 16

Source role: judicial text

3.

Issue: Section 28(iv)

Result: No relevant business or professional transaction; alternative charge rejected

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: 17

Source role: judicial text

4.

Issue: Separately recited capital-gains implementation proceedings

Result: Narrative records an unchallenged 2010 Tribunal order; the Supreme Court disposition supplies no fresh numerical computation or express reopening of that branch

In whose favour: Not independently determined in the operative order

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 5; 7; 12

Paragraphs: 3(f)-(h), 10-11 and 19

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

143(3)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R. K. Agrawal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 12 PDF pages; SHA-256

21d4fe8019c74d50f62b03747eb173a05aafe1a5202ee15405715a3242b8ee76. Original bytes preserved.

Judicial paragraphs 1-19 on physical PDF pages 4-12; earlier pages are editorial headnote, reported identity, jurisdiction and appearances. No adjacent judgment.

[Open cited source rendition](#)

Reported SCR title/date/bench and jurisdiction checked in preserved PDF. Catalogue-supplied retrospective INSC identifier is not treated as an independently verified neutral citation.

1998-99 is the assessment year stated for the lead factual case; separate assessment years for connected appeals are not identified in the bounded judgment.

The judgment rejects historical section 17(2)(iii) and section 28(iv) theories and retrospective operation of former section 17(2)(iiia). Later section 17(2)(vi) and section 49 changes appear only in a separately labelled statutory-history warning, not as provisions decided in this appeal.

Paragraph 2 and the jurisdiction block identify the impugned High Court decision as 23 December 2014; paragraph 3(h) prints 23 December 2004. The note follows the verified lead identity while expressly preserving the inconsistent recital.; Paragraph 10 repeatedly gives the SAR receipt as Rs. 6,80,40,724; paragraph 3(f) describes Rs. 6,80,40,649 as the difference taxed in the separate implementation order. The Rs.75 difference is not silently reconciled.; Paragraph 10 states that the SARs were granted without consideration; paragraph 11 initially describes assets acquired for consideration but later records no cost of acquisition. The actual printed conflict was visually checked. The note attributes the grant facts to paragraph 10 rather than rewriting paragraph 11.; Paragraphs 3(f)-(g) describe capital-gains proceedings culminating in an unchallenged Tribunal order of 24 September 2010, while other recitals describe High Court relief. This batch does not establish the independent branch's final numerical tax effect.; The quoted former section 17(2)(iiia) uses the apparent typographical expression sweet equity in one place; the source is retained unchanged.; The broad descriptive discussion of perquisites as usually non-cash is not a universal tax exemption for cash receipts. Section 28(iv) fails here for want of the business/professional nexus.

STATUTORY SCOPE

Historical assessment-year and statutory setting. No automatic mapping to the Income-tax Act, 2025; check applicable statutory text and subsequent treatment independently.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent-treatment or present-law audit. Any expressly identified bounded comparison is limited to the cited passages.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 12](#)

SHA-256: 21d4fe8019c74d50f62b03747eb173a05aafe1a5202ee15405715a3242b8ee76

[official explanatory circular - PDF pages: 63](#)

SHA-256: ff5bec3a925019cd8bbcc09d7578e6cdcdd202b8b3877852b156d6be76bcea9

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