

Commissioner of Income Tax, Kolkata XII v. M/s Calcutta Export Company

Civil Appeal Nos. 4339-4340 of 2018 and connected proceedings (full list below)

[2018] 5 SCR 731 | 2018-04-24

Whether the Finance Act, 2010 relaxation allowing deducted TDS to be deposited by the section 139(1) return due date applies retrospectively from the insertion of section 40(a)(ia), including AY 2005-06.

40(a)(ia) | 139(1)

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

Assessment years: 2005-06

2010 timing relief is different from the 2014 30% rule

Calcutta Export gives the 2010 TDS-deposit timing amendment retrospective effect from AY 2005-06. Shree Choudhary Transport later distinguished the 2014 reduction to 30%, effective from AY 2015-16, and refused to apply it to AY 2005-06. Do not merge the two amendments; current law has not been comprehensively audited.

[paragraphs 19-19.7](#) / [PDF pages 49, 52, 53, 55, 56](#) / [judicial text](#)

01 FACTS OF THE CASE

The assessee partnership manufactured and exported casting materials from Kolkata. For AY 2005-06 it claimed export commission of Rs. 40,82,089 paid to Steel Crackers Pvt. Ltd. The judgment records TDS deductions on 7 July, 7 September and 7 October 2004 and deposit on 1 August 2005. The Assessing Officer disallowed the commission because deposit occurred after 31 March 2005. The Commissioner (Appeals), Tribunal and Calcutta High Court allowed the claim; Revenue appealed (paragraphs 2-3).

The question was the retrospective reach of the 2010 remittance-timing amendment, not whether an assessee could dispense with withholding altogether or obtain a 30% cap on an older disallowance (paragraphs 5 and 13).

Source: [reported judgment](#) / [paragraphs 2-5 and 13](#) / [PDF pages 7, 8, 9](#) / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court traced the compliance purpose of section 40(a)(ia) and the original consequence of postponing the expenditure deduction until the tax was paid. The 2008 amendment, retrospectively effective from 1 April 2005, relieved the last-month TDS category by permitting remittance by the return due date, but retained a previous-year-end cutoff for the remaining eleven months (paragraphs 14-20).

The Finance Act, 2010 removed that remaining hardship by using the section 139(1) due date for TDS deducted during the previous year. Although the amendment specified effect from 1 April 2010, the Court examined its curative purpose, the disproportionate hardship of shifting substantial expenses for small and medium taxpayers, and the principle applied in *Allied Motors* to a remedial proviso (paragraphs 21-29).

It held that this particular remedial amendment operated from the inception of section 40(a)(ia), AY 2005-06. On the stated deposit and return-due-date facts, the assessee received its benefit. The judgment concerns allowance of the underlying commission expenditure; its recurring shorthand about deducting a TDS amount should not be read as a separate deduction for tax itself (paragraphs 13, 16, 20 and 30).

Source: [reported judgment / paragraphs 14-30 / PDF pages 10, 11, 12, 13, 14, 15, 16 / judicial text](#)

03 JUDICIAL DECISION

The Finance Act, 2010 amendment to section 40(a)(ia) was held curative and retrospective from AY 2005-06. The assessee was entitled to its benefit, and the High Court's decision was left undisturbed. Revenue's appeals were dismissed; connected appeals, interlocutory applications, transferred cases and diary matters were disposed of accordingly. The parties were to bear their own costs (paragraphs 30-31).

Source: [reported judgment / paragraphs 30-31 / PDF pages 15, 16 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeals dismissed; connected matters disposed of; parties bear their own costs

Final retrospective application of the 2010 payment-timing amendment to the lead AY 2005-06 commission claim

The benefit concerns tax deducted and deposited by the section 139(1) due date. It is not a general waiver of TDS default, a decision on every later proviso, or retrospective application of the 2014 30% rule.

Source: [reported judgment / paragraphs 30-31 / PDF pages 15, 16 / judicial text](#)

05 AKHB REVIEW POINT

Prepare a chronology of the underlying expenditure, TDS liability, deduction date, deposit date and section 139(1) due date. Relief here addresses a deposit-timing defect after deduction, rather than making withholding optional. Separate the expenditure claimed from the tax remitted.

A bounded later-case check is important: Shree Choudhary Transport Company (29 July 2020), paragraphs 19-19.7, expressly distinguishes this remedial 2010 amendment from the Finance (No. 2) Act, 2014 substantive reduction of disallowance to 30%, effective from AY 2015-16. The latter reduction was not extended to AY 2005-06. No general rule that every taxpayer-favourable amendment is retrospective follows from Calcutta Export. Current law and any 2025 Act mapping remain unverified.

Source: [reported judgment / paragraphs 3\(a\), 19-31; editorial application / PDF pages 7, 12, 13, 14, 15, 16 / judicial text; reported judgment / paragraphs 19-19.7; 2010 timing relief distinguished from 2014 30% reduction / PDF pages 49, 50, 51, 52, 53, 54, 55, 56 / judicial text](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 4339-4340 of 2018 / Civil Appeal Nos. 4622, 4621, 4467, 4660, 4446, 4449, 4448, 4451, 4468, 4623, 4469, 4453, 4454, 4459, 4457, 4456, 4471, 4624, 4460, 4462, 4463, 4466, 4465, 4470, 4386, 4625, 4387, 4388, 4389, 4390, 4473, 4481, 4472, 4482, 4474, 4483, 4648, 4391, 4649, 4480, 4615, 4485, 4618, 4552, 4650, 4486, 4651, 4488, 4490, 4489, 4491, 4492, 4497, 4498, 4501, 4515, 4502, 4503, 4626, 4504, 4505, 4506, 4507, 4508, 4509, 4510, 4511, 4512, 4513, 4514 of 2018 / T. C. (C) No. 102 of 2015

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Temporal operation of Finance Act, 2010 remittance-timing relaxation

Result: Curative; applicable from AY 2005-06, the inception of section 40(a)(ia)

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16

Paragraphs: 24-30

Source role: judicial text

2.

Issue: Lead commission expenditure disallowance

Result: Assessee entitled to the amended timing benefit; High Court result sustained

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 7; 15; 16

Paragraphs: 3(a), 30-31

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

200(1); 143(3); 43B

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R. K. Agrawal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

VERIFIED RELATIONSHIPS BETWEEN SPECIFIED JUDGMENTS

1.

Earlier case id: sc-2018-04-24-calcutta-export-company

Later case id: sc-2020-07-29-transport

Relationship: 2010_remittance_timing_ratio_explained_and_distinguished_from_2014_percentage_amendment

Evidence

1.

Source url: [Open cited source](#)

Pdf pages: 49; 52; 53; 55; 56

Paragraphs: 19-19.7

Source role: judicial text

Scope limit: Actual bounded treatment check, not a comprehensive later-treatment audit or an overruling finding.

COMPANION CASE SCHEDULE AS REPORTED

Civil Appeal Nos. 4622, 4621, 4467, 4660, 4446, 4449, 4448, 4451, 4468, 4623, 4469, 4453, 4454, 4459, 4457, 4456, 4471, 4624, 4460, 4462, E 4463, 4466, 4465, 4470, 4386, 4625, 4387, 4388, 4389, 4390, 4473, 4481, 4472, 4482, 4474, 4483, 4648, 4391, 4649, 4480, 4615, 4485, 4618, 4552, 4650, 4486, 4651, 4488, 4490, 4489, 4491, 4492, 4497, 4498, 4501, 4515, 4502, 4503, 4626, 4504, 4505, 4506, 4507, 4508, 4509, 4510, 4511, 4512, 4513, 4514 of 2018

F T. C. (C) No.102 of 2015.

SOURCE & VERIFICATION

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

Identified source rendition: 16 PDF pages; SHA-256

e6eaa9bde65cb517580bc77c3ff5012cda8b7360bf5633c32dedf94fc017d4bf. Original bytes preserved.

Judicial paragraphs 1-31 on physical PDF pages 7-16; 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.

2005-06 is the assessment year stated for the lead factual case; separate assessment years for connected appeals are not identified in the bounded judgment.

Section 40(a)(ia) and the section 139(1) remittance deadline are directly decided. Section 200(1) supplies historical timing context; section 43B is the analogy from Allied Motors, not a separate deduction adjudicated here.

The catalogue title duplicates the respondent and includes a malformed XIIv. string. The title here follows the reported cover and judicial identity.; Paragraphs 3(a) and 13 identify 1 August 2005 as the TDS deposit date; paragraph 30 uses that date for filing returns. Both recitals are preserved as distinct source statements; an independently verified return-filing date is not claimed.; The narrative distinguishes the initial assessment completed on 28 December 2007 from the disallowance order dated 12 October 2009. The procedural statutory route for the latter is not supplied and is not inferred.; Several paragraphs refer loosely to deduction of the TDS amount; the dispute and operative benefit concern the underlying Rs. 40,82,089 commission expenditure.; The historical section 40(a)(ia) quotation in paragraph 14 includes rent and royalty, while Shree Choudhary's footnote 14 identifies those words as a 2006 insertion. The quotation is not represented as an independently verified verbatim 2004 enactment.; The quoted section label in paragraph 23 is printed 4(a)(ia); context and the rest of the judgment identify section 40(a)(ia).

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. Shree Choudhary Transport Company paragraphs 19-19.7 were actually reread to verify its distinction between Calcutta Export's 2010 remittance-timing relief and the 2014 30% amendment. Overall subsequent treatment remains not_verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 16](#)

SHA-256: e6eaa9bde65cb517580bc77c3ff5012cda8b7360bf5633c32dedf94fc017d4bf

[reported judgment - PDF pages: 57](#)

SHA-256: 3d1a947916fd7c677bef2bd56c2fa6b53fcef8081ff85710b4283d581825102

[Related note: Shree Choudhary Transport Company v. Income Tax Officer](#)

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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