

Income Tax Officer Ward No. 16(2) v. M/s. Techspan India Private Ltd. & Anr.

Civil Appeal No. 2732 of 2007

[2018] 4 SCR 328 | 2018-04-24

Could a completed assessment be reopened because the Assessing Officer considered the section 10A deduction excessive where allocation of the same common expenses had already been examined in the original scrutiny proceedings?

147 | 148

Two-judge bench | R. K. Agrawal, J. | Mohan M. Shantanagoudar, J.

Assessment years: 2001-02

Historical reopening provision; earlier opinion must be proved

This decision concerns AY 2001-02 and the historical sections 147 and 148 quoted in the judgment. Paragraph 12 requires verification of an express or necessarily implied earlier opinion on the issue; it does not presume one from every assessment. Later statutory regimes and subsequent treatment have not been comprehensively checked.

01 FACTS OF THE CASE

Techspan developed and exported computer software and supplied human-resource services. For AY 2001-02 it filed its return on 25 October 2001 declaring a loss of Rs. 3,31,301, showing income from software development and human-resource development, claiming common expenses and a section 10A deduction on software income. During section 143(3) scrutiny, the notice of 9 March 2004 specifically questioned the basis of allocating those common expenses. The issue was contested and decided; paragraph 2(c) records the order of 29 November 2004 and rectification under section 154, arriving at Rs. 31,63,570, fully set off against brought-forward loss to yield nil assessed income.

A section 148 notice dated 10 February 2005 alleged excess section 10A deduction and escapement of Rs. 57,36,811. The order of 17 August 2005 rejected the assessee's objections; the judgment also describes that order as the reassessment order. Delhi High Court, in W.P.(C) No. 14376 of 2005 on 24 February 2006, quashed both the notice and that order. Revenue appealed (paragraphs 1-2).

Source: [reported judgment](#) / [paragraphs 1-2\(a\)-\(f\)](#) / [PDF pages 4, 5](#) / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

Under the historical sections 147 and 148 reproduced in paragraph 8, the Assessing Officer must have reason to believe that taxable income escaped assessment. The Court distinguished reassessment from review: merely interpreting the law differently on facts already known does not justify reopening. It quoted Kelvinator for the change-of-opinion safeguard and the need for tangible material with a live link to the belief of escapement (paragraphs 8-11).

The Court added a material qualification. Before striking down reopening as a change of opinion, the court must check that the original assessment expressed an opinion, expressly or by necessary implication, on the matter now said to have escaped assessment. An opinion cannot automatically be attributed to a non-speaking, cryptic or perfunctory assessment that did not address the relevant aspect (paragraph 12).

Here the objection-rejection order relied on the absence of separate books for the software and human-resource categories. But the original notice had already raised that very absence and the failure to show proportionate allocation, and had even suggested how allocation should be made. The question how, and to what extent, section 10A deduction should be allowed was therefore considered in the original proceedings. The later view that too much deduction had been allowed was only a change of opinion on the same known facts (paragraph 13).

Source: [reported judgment / paragraphs 8-13 / PDF pages 6, 7, 8, 9, 10 / judicial text](#)

03 JUDICIAL DECISION

The High Court's order required no interference. Revenue's Civil Appeal No. 2732 of 2007 was dismissed, without costs, leaving the quashing of the section 148 notice and the 17 August 2005 order intact (paragraph 14).

Source: [reported judgment / paragraphs 14 / PDF pages 10 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeal dismissed; no order as to costs

Reopening finally rejected on the facts; no independent fresh computation of section 10A entitlement

The original examination of this particular expense-allocation issue was decisive. The judgment does not presume an opinion on every issue in every completed or cryptic assessment.

Source: [reported judgment / paragraphs 12-14 / PDF pages 9, 10 / judicial text](#)

05 AKHB REVIEW POINT

Compare the recorded reopening reasons with the actual original notice, replies and assessment record, rather than relying only on a short assessment order. Techspan succeeded because the same absence of separate books and the same expense-allocation question had already been put in issue and examined. Preserve paragraph 12 alongside that result: this is not a rule that every completed assessment necessarily decides every possible question. The note concerns the historical provisions quoted for AY 2001-02 and does not certify how any later reassessment regime applies.

Source: [reported judgment / paragraphs 12-13 / PDF pages 9, 10 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS**Issue results**

1.

Issue: Reopening to revisit section 10A common-expense allocation

Result: Impermissible change of opinion on the same facts already examined

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: 13-14

Source role: judicial text

2.

Issue: Whether an earlier opinion may automatically be assumed

Result: No; express or necessarily implied consideration of the relevant matter must first be verified

In whose favour: Qualification of the change-of-opinion rule

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: 12

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

10A; 143(3); 154

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: 10 PDF pages; SHA-256

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Paragraphs 1-14 on physical pages 4-10; preceding pages are editorial headnote, identity and appearance material. No neighbouring judgment text included.

Open cited source rendition

Expressly identified in paragraph 2(b)-(c); no companion assessment year is supplied.

Sections 147 and 148 govern the reopening actually decided. Section 10A is the underlying deduction issue and section 143(3) the original scrutiny setting; section 154 appears in the recorded rectification history. Sections 139, 142 and the 148-153 range occur in the historical statutory quotation, not as independently determined questions.

The full reported judicial text, not its editorial headnote, controls this note. No separately acquired signed original is claimed for this case.; The judgment describes the 17 August 2005 order both as rejection of objections/approval of reassessment and as a reassessment order. This note retains that distinction rather than inferring an additional later order.; The original scrutiny and section 154 chronology is reported as paragraph 2(c) states it; no separate assessment record was inspected.; Section 10A is the subject of the alleged excess deduction, not a separate Supreme Court recomputation of allowable quantum.; The historical section 147/148 quotation and paragraph 12 qualification must remain visible; no current-law or 2025 mapping certification is made.

STATUTORY SCOPE

Historical assessment-year and statutory setting only. No automatic mapping to the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent-treatment or current-law search has been performed. Authorities discussed in the judgment are reported as its own reasoning, not as a separately verified later-treatment chain.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 10

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