

Snowtex Investment Limited v. Principal Commissioner of Income Tax, Central-2, Kolkata

Civil Appeal No. 4483 of 2019

[2019] 8 S.C.R. 687 | 2019-04-30

Whether Snowtex's AY 2008-09 share-trading loss could be set off against non-speculative futures-and-options profits, either because its principal business was granting loans and advances or because the 2014 amendment to the section 73 Explanation should operate retrospectively.

43(5)(d) | 73 | 73(1) | 73 Explanation

Two-judge bench | Dr. Dhananjaya Y. Chandrachud, J. | Hemant Gupta, J.

Assessment years: 2008-09

01 FACTS OF THE CASE

Snowtex was registered as an NBFC under the Reserve Bank of India Act, 1934. For AY 2008-09 it traded in shares and in futures and options. The Assessing Officer treated the share-trading loss as speculative under the section 73 Explanation and the eligible futures-and-options business as non-speculative under section 43(5)(d), refusing the requested set-off. CIT(A) rejected that set-off claim. The Tribunal allowed it on a composite-business approach; the Calcutta High Court reversed on 22 November 2016. Snowtex appealed (paragraphs 2-7).

The company argued first that lending was its principal business. It relied on deployment of Rs. 11.32 crore of Rs. 13.48 crore total funds in loans and advances, as against Rs. 1.28 crore in shares, and on its NBFC registration. Revenue pointed to Snowtex's express statement to the Assessing Officer that share trading was its sole business for the year, interest receipts of about Rs. 2.21 lakh against interest paid of about Rs. 62.84 lakh, and interest-free lending of Rs. 9.58 crore within the Rs. 11.32 crore figure (paragraphs 8 and 10).

Alternatively, Snowtex argued that the Finance (No. 2) Act 2014 amendment adding a principal-share-trading-business exception to the section 73 Explanation should apply retrospectively. It compared the exclusion for eligible derivatives operative from 1 April 2006 with the share-trading amendment operative from 1 April 2015, relying on perceived anomaly and decisions on remedial amendments (paragraphs 9-12).

Source: [reported judgment](#) / [paragraphs 2-12](#) / [PDF pages 4, 5, 6, 7, 8](#) / [judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

Two statutory questions had to be kept separate. Section 43(5)(d), introduced through the Finance Act 2005 with effect from 1 April 2006, excluded eligible derivative transactions carried out on a recognised stock exchange from speculative transactions. Section 73(1), however, restricted a speculation-business loss to set-off against another speculation business's profits. Its Explanation separately deemed the relevant share-trading business of a company speculative, subject to specified company exceptions. The Finance (No. 2) Act 2014 added the principal-business-of-trading-in-shares exception only with effect from 1 April 2015 (paragraphs 14-19). The later wording quoted in paragraph 16 is not the version retrospectively applied to Snowtex.

NBFC registration and a large loans-and-advances balance did not decide the principal-business question in the company's favour. Its express factual admission that share dealing was its sole business for AY 2008-09, together with the predominance of interest-free advances, justified rejection of the lending exception. Importantly, the Court expressly declined to determine the wider Savi Commercial submission that deployment of funds, rather than income alone, should govern principal-business identification. It did not prescribe a universal receipts test or decide that NBFCs can never qualify (paragraphs 20-22).

The 2014 amendment was prospective. When Parliament excluded eligible derivatives in 2005, it also amended section 73(4) to reduce the carry-forward period from eight years to four. It was therefore aware of section 73 but did not then add the principal-share-trading exception. That exception was deliberately introduced later, with an express commencement date. The perceived mismatch did not justify treating it as clarificatory or retrospective (paragraphs 23-24 and 30).

The Court accepted that a stipulated commencement date does not prevent a court from examining whether an amendment is genuinely clarificatory or intended to be retrospective. Allied Motors and Alom Extrusions were explained through their own statutory purpose and context; Vatika Township and Vijay Industries reinforced the need to respect legislative intention. Snowtex does not announce that every beneficial amendment is prospective or that courts lack interpretive power to find retrospectivity (paragraphs 25-29).

For this year, the share loss remained a speculation-business loss while the eligible futures-and-options profit was non-speculative. Treating both as one commercial activity did not displace the statutory difference or the section 73 set-off restriction (paragraphs 30-31).

Source: [reported judgment / paragraphs 14-19 / PDF pages 8, 9, 10 / judgment](#); [reported judgment / paragraphs 20-24 / PDF pages 10, 11, 12 / judgment](#); [reported judgment / paragraphs 25-31 / PDF pages 12, 13, 14, 15 / judgment](#); [official signed judgment / paragraphs 14-24; 30-31 / PDF pages 6, 7, 8, 9, 10, 11, 12, 14, 15 / judgment](#)

03 JUDICIAL DECISION

The assessee's appeal was dismissed, with no order as to costs; pending applications were disposed of. For AY 2008-09 the share-trading loss could not be set off against the futures-and-options business profits. The lending-exception claim failed on the recorded facts, and the principal-share-trading exception inserted by the Finance (No. 2) Act 2014 was held operative from 1 April 2015, without retrospective or clarificatory effect (paragraphs 22, 30-33).

Source: [reported judgment / paragraphs 22; 30-33 / PDF pages 11, 15 / judgment](#); [official signed judgment / paragraphs 30-33 / PDF pages 14, 15 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeal dismissed; no costs; pending applications disposed of

Set-off refusal and prospective operation of the specific 2014 amendment finally upheld

AY 2008-09 and eligible exchange-traded derivatives on the stated facts. No universal principal-business formula, NBFC exclusion or determination of every derivative or post-2015 share-trading case.

Source: [reported judgment / paragraphs 32-33 / PDF pages 15 / judgment](#); [official signed judgment / paragraphs 32-33 / PDF pages 15 / judgment](#)

05 AKHB REVIEW POINT

Prepare separate statutory classifications for the share activity and each derivative product before calculating set-off. Check the company exceptions in the Explanation for the relevant year; a later exception cannot be imported into AY 2008-09 merely because it removes an apparent anomaly. Establish the derivative transaction's eligibility and recognised-exchange conditions rather than assuming every futures or options contract is non-speculative.

Reconcile the return, submissions, business descriptions, lending records and deployed funds. Snowtex's specific admission and interest-free advances mattered. The Court left the wider income-versus-deployment principal-business test open, so the case should not be presented as making either registration or one balance-sheet ratio conclusive in all cases.

For amendment arguments, document the exact enactment, commencement and contemporaneous statutory changes. This judgment rejects retrospectivity of the 2014 share-trading exception, while preserving the general interpretive inquiry for genuinely clarificatory provisions. Confirm later law and treatment for another year; no automatic Income-tax Act, 2025 mapping is made.

Source: [reported judgment / paragraphs 14-17; 20-31 / PDF pages 8, 9, 10, 11, 12, 13, 14, 15 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

73(4); 143(1); 143(2); 260A; 43B; 80AB

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 43(5)(d)

Role: Eligible-derivative exclusion applicable for the disputed year

Basis: Finance Act 2005 amendment effective 1 April 2006; eligible derivative transactions on recognised stock exchanges were excluded from speculative transactions, paragraphs 14-15.

2.

Act: Income-tax Act, 1961

Section: 73(1); Explanation to section 73

Role: Set-off restriction and company share-trading deeming rule

Basis: The pre-1 April 2015 Explanation applied to AY 2008-09; the company did not establish the principal loans-and-advances exception on its facts.

3.

Act: Income-tax Act, 1961

Section: 73(4)

Role: Legislative-history context

Basis: The simultaneous 2005 reduction in carry-forward period showed Parliament was aware of section 73; it did not then add the principal share-trading exception.

4.

Act: Income-tax Act, 1961

Section: 43B; 80AB

Role: Earlier-authority comparisons, not deductions decided in this case

Basis: Allied Motors, Alom Extrusions, Vatika Township and Vijay Industries supplied the interpretive discussion; no Snowtex deduction under these provisions was adjudicated.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dr. Dhananjaya Y. Chandrachud, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

ORIGINATING PROCEEDING

SLP (C) No. 20017 of 2017

SOURCE & VERIFICATION

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

Identified source rendition: 16 PDF pages; SHA-256

a2f58e34e777927d9eade8d7b9734f9d4684c1d7d90ac2c053069d287d9151c8. Original bytes preserved.

Signed judgment paragraphs 1-33 on physical pages 1-15. Physical page 16 is a record of proceedings confirming disposal, not an additional judgment page.

Cover, case number, author, signatures/date and selected substantive passages checked against the fully read reported judicial text. No full independent reread of the separate official rendition is claimed; cryptographic signature validity was not tested.

Open cited source rendition

The operative principal-share-trading exception requires that trading in shares be the company's principal business; this is not a wholesale exclusion of every company's share activity.

The paragraph 16 quotation is the post-1 April 2015 Explanation, not the text applied to AY 2008-09.

Paragraphs 21-22 expressly leave the wider funds-deployment versus income test unresolved.

Paragraph 5 describes Revenue as appealing the CIT(A) decision even though paragraph 4 describes refusal of the assessee's set-off claim. The note preserves the substantive procedural outcomes without inventing missing grounds or reversing the stated appellant.

Paragraph 9's continuation refers once to Finance (No. 2) Act 2015 in the submissions; the Court's operative analysis in paragraphs 16, 24 and 30 identifies the 2014 enactment.

The official PDF has 16 physical pages, but page 16 is ROP; judicial paragraphs and signatures end on page 15.

SCR citation verified on the cover. Catalogue neutral citation 2019INSC593 is not independently verified from the inspected renditions and is not adopted.

AY 2008-09 alone is under appeal. AY 2006-07 is the stated commencement of the eligible-derivative amendment, while 1 April 2015 is the later share-trading-company exception date; years from quoted precedents are not additional Snowtex appeals.

STATUTORY SCOPE

Section 43(5)(d) as amended by Finance Act 2005, effective 1 April 2006, and the section 73 Explanation governing AY 2008-09; the Finance (No. 2) Act 2014 amendment effective 1 April 2015 is examined for temporal effect, not applied retrospectively.

No automatic Income-tax Act, 2025 crosswalk, comprehensive later-treatment audit or present-law certification.

LATER TREATMENT

Source checked 2026-10-04. Subsequent judicial treatment and later statutory changes have not been comprehensively verified. Any separately identified later authority or amendment is a bounded check, not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

official signed judgment - PDF pages: 16

SHA-256: a2f58e34e777927d9eade8d7b9734f9d4684c1d7d90ac2c053069d287d9151c8

reported judgment - PDF pages: 15

SHA-256: 70e0c794b631e6e066c875118eab0efcf298d1321a3e0076132a531e14bb1a1e

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