

Union of India & Ors. v. Exide Industries Limited & Anr.

Civil Appeal No. 3545 of 2009

[2020] 7 SCR 1 | 2020-04-24

Whether the actual-payment condition for deduction of an employer's leave-encashment liability in section 43B(f) was constitutionally invalid because separate objects and reasons were not disclosed, the liability differed from other section 43B entries, or the amendment impermissibly nullified Bharat Earth Movers without changing its legal basis.

43B(f) | 43B first proviso | 43B Explanation 3B | 145(1) | 145(2)

Three-judge bench | A. M. Khanwilkar, J. | Hemant Gupta, J. | Dinesh Maheshwari, J.

Assessment years: See the source-scope notes; no year inferred.

01 FACTS OF THE CASE

The Finance Act, 2001 inserted clause (f) in section 43B with effect from 1 April 2002, bringing sums payable by an employer in lieu of an employee's leave credit within the specified actual-payment deduction regime. Exide and the other respondent, computing business income on the mercantile basis, challenged that condition. Their case was that leave-encashment liability was a definite accrued trading liability and that section 145 allowed their accounting method to recognise it before payment (paragraphs 1-4).

They relied on Bharat Earth Movers, which had held, under the earlier statutory dispensation, that the relevant leave-encashment liability was present rather than contingent. They argued that clause (f) differed from the statutory or employee-welfare liabilities otherwise covered by section 43B, lacked separately stated objects and reasons, and was enacted merely to defeat the Supreme Court's decision without removing its basis (paragraphs 4-6).

The Calcutta High Court single judge upheld the provision, viewing it as a prospective change to prevent an employer from taking the tax deduction while retaining the money without paying the employee. The Division Bench reversed on 27 June 2007 in APO No.301 of 2005, holding clause (f) invalid on the grounds later analysed by the Supreme Court. The Union and others appealed. This was a constitutional challenge; the judgment supplies no specific assessment year, deduction amount or employee-level payment claim for adjudication (paragraphs 7-10).

Source: [reported judgment / paragraphs 1-8: provision challenged, taxpayer arguments and High Court decisions / PDF pages 13, 14, 15, 16, 17, 18, 19, 20 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court began with legislative competence and constitutional rights. Parliament's power to enact the provision was not disputed. Constitutional review still required examination of whether the law infringed Part III or another constitutional limitation, starting from the presumption of validity. Describing a fiscal provision as arbitrary, unreasonable or harsh did not dispense with showing an infirmity in its form, substance or operation. Fiscal classification receives greater legislative latitude, but the Court expressly retained the requirement of compliance with Article 14 (paragraphs 11-13, 30 and 34).

Section 145 permits cash or mercantile accounting subject to its statutory qualifications. Section 43B does not compel abandonment of the mercantile system or erase an otherwise lawful deduction; as a special provision with a non-obstante clause, it adds an actual-payment condition for specified heads. The distinction is between accrual of the underlying liability and the time when its tax deduction becomes available. The statutory text reproduced in paragraph 2 also includes clause (f) in the first proviso's saving for payment by the applicable section 139(1) return-filing due date, and includes Explanation 3B against a second deduction for amounts already deducted under the stated earlier-year rule. The constitutional holding does not delete those parts of the reproduced scheme (paragraphs 2 and 14-17).

The contention that section 43B could contain only statutory liabilities was rejected. Its entries had developed to cover varied liabilities, including employee benefits and loan interest. Parliament could subject a further otherwise-allowable deduction to payment conditions. Leave encashment forms part of the employee's service conditions; allowing an employer the deduction while it retained the funds and later resisted payment risked a double advantage. The clause addressed employee welfare and revenue protection. Its purpose was to regulate deduction timing, not to force payment in the accrual year contrary to the employment scheme (paragraphs 18-22 and 31-33).

The absence of separately published objects and reasons was not itself a constitutional defect. Such material can assist with background and the mischief addressed, especially where meaning is uncertain, but the enacted text is central and an individual explanation cannot cut down its generality. The High Court had not identified ambiguity requiring departure from the text or established a constitutional infirmity; it had treated the circumstances and supposed motives of enactment as substitutes for that examination. Courts do not sit as appellate authorities over legislative wisdom (paragraphs 23-30).

The Court also rejected the supposed inconsistency with the original section's purpose. There was no implied restriction limiting Parliament to one type of deduction. Clause (f) sufficiently related to the broader revenue and employee-welfare purposes, and fiscal legislation may target particular problems without placing every conceivable liability in the same category. This latitude was expressly subject to constitutional limits, rather than immunity from review (paragraphs 31-34).

02 DISCUSSION BY THE HON'BLE COURT

Bharat Earth Movers remained authority on the nature of the liability under the earlier dispensation. Clause (f) did not convert an accrued liability into a contingent one, nor simply declare that judgment wrong. It prospectively altered the legal rules governing when the deduction could be taken. A legislature cannot by bare declaration overrule a judicial decision; within its competence and constitutional limits it may change the underlying law so the earlier conclusion no longer governs the altered conditions. The discussion of validating legislation in cited cases did not make this particular amendment retrospective: the Court repeatedly described clause (f)'s operation as prospective (paragraphs 35-40).

Because neither lack of legislative competence nor a constitutional infirmity in clause (f) had been established, the grounds supporting the Division Bench's invalidation failed. The resulting holding was validity of the actual-payment condition, not a fresh classification of leave encashment as contingent or a merits determination of an individual assessment (paragraphs 39-42).

Source: [reported judgment / paragraphs 2: historical section 43B text, first proviso and Explanation 3B / PDF pages 13, 14, 15, 16, 17 / judgment](#); [reported judgment / paragraphs 11-17: constitutional approach and accounting/deduction distinction / PDF pages 20, 21, 22, 23, 24 / judgment](#); [reported judgment / paragraphs 18-23: varied deductions, welfare/revenue mischief and challenge grounds / PDF pages 24, 25, 26 / judgment](#); [reported judgment / paragraphs 24-30: objects/reasons and constitutional-review limits / PDF pages 26, 27, 28, 29, 30, 31 / judgment](#); [reported judgment / paragraphs 31-34: statutory nexus and fiscal-law latitude / PDF pages 31, 32, 33 / judgment](#); [reported judgment / paragraphs 35-40: Bharat Earth Movers, legislative power and prospective timing regulation / PDF pages 33, 34, 35, 36, 37 / judgment](#); [official signed judgment / paragraphs 2 and 39-40: statutory saving and effect on leave liability / PDF pages 3, 37, 38, 39 / judgment](#)

03 JUDICIAL DECISION

The Union's appeal was allowed. The Calcutta High Court Division Bench judgment was reversed, and section 43B(f) was held constitutionally valid and operative for all purposes. There was no order as to costs; pending interlocutory applications, if any, stood disposed of. The decision did not quantify a tax demand, direct a refund, or grant a particular assessment-year deduction (paragraphs 41-42).

Source: [reported judgment / paragraphs 41-42 / PDF pages 37, 38 / judgment](#); [official signed judgment / paragraphs 41-42 / PDF pages 39, 40 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Union of India / Revenue

Revenue appeal allowed; Calcutta High Court Division Bench judgment reversed; section 43B(f) upheld

Final constitutional determination of the challenged provision; no quantified assessment or payment-specific proviso claim adjudicated

Actual-payment conditionality affects tax-deduction timing and leaves the accrued character of leave-encashment liability intact. The insertion was prospective from 1 April 2002; quoted historical provisos and constitutional restrictions remain material. No blanket immunity for fiscal legislation or bare legislative overruling is endorsed.

Source: [official signed judgment / paragraphs 42 / PDF pages 39, 40 / judgment](#); [reported judgment / paragraphs 42 / PDF pages 38 / judgment](#)

05 AKHB REVIEW POINT

Keep the accounting liability and tax-deduction schedule distinct. An actuarially supported accrued leave liability can remain recognised in mercantile accounts while its tax deduction is governed by section 43B(f). Maintain a reconciliation of opening disallowed provisions, actual payments, payment dates, amounts claimed and previously allowed deductions. Examine the applicable statutory proviso and avoid double deduction; neither a provision in the books nor the accounting label alone answers the tax-timing question.

Use Bharat Earth Movers for the liability character under its statutory setting, then test the effect of the subsequently applicable payment condition. Exide does not hold that leave encashment became contingent or that the legislature overruled the Court merely by declaring it wrong. Its conclusion depends on an enacted prospective change to the governing law.

A constitutional challenge needs a demonstrated constitutional defect, rather than disagreement with fiscal policy or reliance only on missing objects and reasons. Conversely, legislative latitude is still bounded by competence, Article 14 and other constitutional requirements. For any live matter verify the relevant year's provision, applicable payment/evidence requirements and later treatment independently. This note makes no present-law certification or automatic Income-tax Act, 2025 mapping.

Source: [reported judgment / paragraphs 2, 15-20, 29-30, 34 and 37-42 / PDF pages 13, 14, 15, 16, 17, 23, 24, 25, 30, 31, 32, 33, 34, 35, 36, 37, 38 / judgment](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: No order as to costs

Interlocutory applications: Pending interlocutory applications, if any, disposed of in the final judgment

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

14; 28; 37; 139(1); 145(3); 144; 43B(a)-(e)

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 43B(f)

Role: principal provision upheld

Basis: Actual-payment condition regulates the timing of deduction for an employer's leave-encashment liability, prospectively from the insertion effective 1 April 2002.

2.

Act: Income-tax Act, 1961

Section: 43B first proviso; 139(1)

Role: express saving in reproduced historical text

Basis: Clause (f) is included in the exception for payment on or before the applicable return-filing due date, with the evidentiary condition stated in the reproduced version; no particular payment/proviso claim is decided.

3.

Act: Income-tax Act, 1961

Section: 43B Explanation 3B

Role: anti-duplication rule in reproduced text

Basis: Where deduction was allowed for the previous year relevant to AY commencing 1 April 2001 or earlier, a second deduction on later actual payment is barred.

4.

Act: Income-tax Act, 1961

Section: 145(1)-(2)

Role: accounting autonomy and its statutory qualification

Basis: Choice of cash or mercantile accounting is not destroyed; a special tax-deduction condition can override the ordinary accrual consequence for the specified head.

5.

Act: Income-tax Act, 1961

Section: 14; 28; 37

Role: charge/computation and antecedent deduction context

Basis: Bharat Earth Movers concerned accrued leave-encashment liability under the earlier dispensation; the present case does not determine a specific section 37 amount.

6.

Act: Income-tax Act, 1961

Section: 43B(a)-(e); 145(3); 144

Role: historical scheme and contextual quotations

Basis: Other conditional deductions and accounting-assessment provisions are considered to explain the statutory structure, not to decide their independent operation.

7.

Act: Constitution of India

Section: Articles 13, 14 and 245

Role: constitutional validity

Basis: Legislative competence was not disputed; the asserted Part III infirmity was not demonstrated. Fiscal latitude does not remove Article 14 scrutiny.

8.

Act: Constitution of India

Section: Articles 246 and 309

Role: context in quoted validating-legislation authorities

Basis: The extracts illustrate limits on bare legislative overruling and permissible alteration of the legal basis; no service-rule dispute is decided.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. M. Khanwilkar, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

CONSTITUTIONAL ARTICLES CONSIDERED

13; 14; 245

CONSTITUTIONAL CONTEXT

246; 309

SOURCE & VERIFICATION

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

Identified source rendition: 40 PDF pages; SHA-256
cf50b477d1b138d7d3dff1912583e5b90e701c403cd9d13989b788cf22042ba6. Original bytes preserved.
Judgment paragraphs 1-42 on physical pages 1-40; final signatures and date on page 40.
Cover, signatures/date, specified substantive passages and operative disposition checked against the fully read reported judicial text; no claim of an independent reread of every official-original page.

[Open cited source rendition](#)

No specific disputed assessment year or deduction amount is identified in this constitutional judgment; the 1 April 2002 effective date is not presented as an assessed period.

The first proviso quoted in paragraph 2 expressly covers clause (f); a payment-year summary must not conceal that statutory saving.

Bharat Earth Movers is distinguished by the later prospective statutory condition; the accrued nature of leave liability is not reversed.

Fiscal latitude is not immunity from Article 14 or other constitutional limits, and bare legislative nullification of a judgment remains impermissible.

Headnote item 3.3 refers to paragraph 21 for reasoning actually found in judicial paragraph 39; the note uses the judicial text.

The full historical section 43B quotation contains provisions outside the dispute and is not a certified present-day section text.

Historical interlocutory orders are not reproduced in the final judgment and were not independently reviewed; the final disposition itself disposes pending interlocutory applications and supplies no continuing interim deduction exception.

Reported citation verified on the reported cover. The catalogue neutral-citation entry was not independently confirmed on either inspected PDF and is not adopted.

The appeal determines the constitutional validity of section 43B(f), introduced by the Finance Act, 2001 with effect from 1 April 2002. The judgment does not identify a particular disputed assessment year or quantify an assessment. Statutory references to AY 2001 and earlier in Explanation 3B prevent duplicate deduction; they do not identify the year litigated.

STATUTORY SCOPE

Section 43B(f), inserted by the Finance Act, 2001 effective 1 April 2002, including the historical first proviso and Explanation 3B reproduced by the Court; sections 145 and 37 as discussed. No present version of the full section 43B quotation is certified.

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

LATER TREATMENT

Source checked 2026-10-04. Subsequent judicial treatment and later statutory or treaty changes have not been comprehensively verified. References to earlier decisions describe their treatment in this judgment only.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 40](#)

SHA-256: cf50b477d1b138d7d3dff1912583e5b90e701c403cd9d13989b788cf22042ba6

[reported judgment - PDF pages: 38](#)

SHA-256: c714a6ebdfb3cdac88decdfc385b6c28b520a2319fa74388e68cb98d50ff5663

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