

Shree Choudhary Transport Company v. Income Tax Officer

Civil Appeal No. 7865 of 2009

[2020] 8 SCR 165 | 2020-07-29

Whether the transport contractor had to deduct TDS on payments to hired truck operators; whether section 40(a)(ia) applies to amounts already paid; whether its introduction effective 1 April 2005 covered AY 2005-06, including earlier payments in FY 2004-05; and whether the 2014 reduction of disallowance to 30% could be applied retrospectively to this case.

194C(2) | 40(a)(ia)

Two-judge bench | A. M. Khanwilkar, J. | Dinesh Maheshwari, J.

Assessment years: 2005-06

01 FACTS OF THE CASE

The assessee partnership firm undertook to transport cement for Aditya Cement/its Grasim marketing division. It owned no trucks and engaged other truck operators to perform the work. The consignor paid freight to the firm after TDS; the firm then paid the operators, retaining amounts described as commission. The firm's contract was on a principal-to-principal basis, and the truck operators had no direct contractual relationship with the consignor (paragraphs 3-7.2).

For AY 2005-06, the Assessing Officer examined the dispatch register, cash book and vouchers and found payments exceeding Rs. 20,000 under individual bilties/challans without TDS. Showing a single freight payment in two consecutive cash-book entries did not avoid the threshold. The resulting disallowance under section 40(a)(ia) was Rs. 57,11,625. The Commissioner (Appeals), Tribunal and Rajasthan High Court upheld that conclusion (paragraphs 5-9).

Before the Supreme Court the firm denied any sub-contract, claimed that section 40(a)(ia) reached only unpaid amounts, disputed its application to FY 2004-05 or payments before presidential assent on 10 September 2004, and alternatively sought the benefit of the 2014 reduction to 30%. It also argued that the disallowance produced an unrealistic income figure for a low-margin transporter (paragraphs 10-12).

Source: [reported judgment / paragraphs 1-9 / PDF pages 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 / judgment](#); [reported judgment / paragraphs 10-12 / PDF pages 21, 22, 23, 24, 25, 26 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 194C obligation: the appellant was responsible for completing the consignor's transport contract. Once it hired a truck to carry the goods for freight, a contract arose with that operator for part of the appellant's own work, whether or not reduced to writing. Freelance or need-based hiring did not alter the operator's status as a sub-contractor under section 194C(2). The firm was not a mere intermediary of the kind considered in Hardarshan Singh. The consignor's deduction on payments to the firm did not discharge the firm's distinct obligation on payments to its sub-contractors (paragraphs 15-15.5).

The historical section 194C text reproduced in paragraph 13.1.1 required a contractor within sub-section (2) to deduct 1% when crediting a resident sub-contractor or paying it, whichever occurred earlier. Work included carriage of goods otherwise than by rail. The reproduced sub-section (3) contained the Rs. 20,000 exception and an annual-aggregate Rs. 50,000 proviso; the actual liability sustained here concerned sums exceeding Rs. 20,000 under individual bilties/challans. These are the historical terms examined in this judgment, not current rates or thresholds. Splitting entries for the same freight obligation did not eliminate it (paragraphs 5.4, 6.2, 13.1.1 and 19.6).

Paid and payable: section 40(a)(ia) is an additional consequence of failure to comply with the Chapter XVII-B withholding scheme. The word payable describes the nature of payments attracting TDS; it does not create a protected category of expenditure already paid. Reading sections 194C, 200 and 201 together with section 40(a)(ia), the Court followed Palam Gas Service, approved the P.M.S. Diesels reasoning and rejected the request to reconsider Palam Gas. The altered wording between the Bill and enacted provision, the proviso, the cash-versus-mercantile distinction and section 43(2) did not justify the narrower reading (paragraphs 16-16.12).

First assessment year: the Finance (No. 2) Act, 2004 expressly introduced section 40(a)(ia) with effect from 1 April 2005. Under the assessment-year framework, absent contrary legislative intention, that meant AY 2005-06, assessing income of FY 2004-05; it did not postpone operation to AY 2006-07. The Court disapproved the contrary view in Piu Ghosh. It also rejected a carve-out for payments before presidential assent on 10 September 2004. The pre-existing section 194C duty already bound the appellant, and the original proviso allowed deduction in the later year in which the requisite TDS was paid (paragraphs 17-18.1).

Different amendments have different consequences. The 2008 and 2010 changes addressed procedural hardship for assesseees who deducted TDS but deposited it late; Calcutta Export Company treated the 2010 remedial change as retrospective from the original insertion of section 40(a)(ia). The Finance (No. 2) Act, 2014 instead substantively reduced disallowance to 30%, expressly effective from 1 April 2015, that is AY 2015-16. The Court refused to extend that reduction to AY 2005-06. This appellant had not deducted and subsequently deposited TDS so as to benefit from the earlier remedial changes (paragraphs 19-19.7).

The hardship argument did not change the result. The default-triggered provisions enforced

02 DISCUSSION BY THE HON'BLE COURT

tax compliance, and the amount disallowed was Rs. 57,11,625 of non-compliant freight expenditure, not all receipts of Rs. 1,43,90,632 or all freight payments of Rs. 1,37,71,206. The judgment's quotation of the later payee-return proviso is not an independent determination of its application or retrospectivity in this appeal (paragraphs 19.1 and 20-21.1).

Source: [reported judgment / paragraphs 13.1.1; 15-15.5 / PDF pages 27, 28, 29, 33, 34, 35, 36 / judgment; reported judgment / paragraphs 16-16.12 / PDF pages 36, 37, 38, 39, 40, 41, 42, 43, 44 / judgment; reported judgment / paragraphs 17-18.1 / PDF pages 44, 45, 46, 47, 48, 49 / judgment; reported judgment / paragraphs 19-19.7 / PDF pages 49, 50, 51, 52, 53, 54, 55, 56 / judgment; reported judgment / paragraphs 20-21.1 / PDF pages 56, 57 / judgment; official signed judgment / paragraphs 19.2; 19.5-19.7 / PDF pages 54, 57, 58 / judgment](#)

03 JUDICIAL DECISION

The Court upheld the firm's section 194C obligation and the Rs. 57,11,625 disallowance under section 40(a)(ia) for AY 2005-06. The paid-versus-payable defence, first-year and pre-assent objections, retrospective 30% claim and hardship argument all failed. Questions 1-3 were answered against the assessee, and question 4 was answered affirmatively in Revenue's favour. The appeal was dismissed with costs (paragraphs 20-22).

Source: [reported judgment / paragraphs 20-22 / PDF pages 56, 57 / judgment; official signed judgment / paragraphs 20-22 / PDF pages 58, 59, 60, 61 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeal dismissed with costs; disallowance sustained

Final merits determination of withholding, paid/payable, effective-year and amendment-percentage issues

The upheld disallowance is the full Rs. 57,11,625 of identified defaulting payments for AY 2005-06. The 2014 30% amendment was not applied retrospectively. Current thresholds, exemptions, later payee-based relief and other assessment years require separate verification.

Source: [official signed judgment / paragraphs 22 / PDF pages 61 / judgment](#)

05 AKHB REVIEW POINT

Start with the contractual chain and the actual work. Keep the principal contract, individual goods receipts, freight ledger, payment dates and TDS records together. A firm's lack of its own trucks, description of its margin as commission, ad hoc hiring, or receipt of money after the consignor's TDS does not by itself remove its own sub-contractor withholding obligation. Verify genuine intermediary facts before using a commission-agent analogy.

For disallowance analysis, do not segregate paid expenses as automatically outside section 40(a)(ia). Build an assessment-year-specific chronology: when TDS became deductible, when it was deducted and paid, and which version of each proviso governed. This decision distinguishes retrospective procedural remittance relief from the prospectively effective 30% reduction; it does not make every taxpayer-favourable amendment retrospective.

Keep the historical Rs. 20,000, 1% and AY 2005-06 discussion separate from present compliance advice. Examine later statutory relief, subsequent decisions and any Income-tax Act, 2025 application afresh. The Court's rejection of hardship concerns the defaults and sums established in this record, not a rule that every freight receipt is taxable profit.

Source: [reported judgment / paragraphs 15-15.5; 16.7-16.12; 17.6-19.7; 21-21.1 / PDF pages 33, 34, 35, 36, 42, 43, 44, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

194C(1); 194C(3); 200; 201; 43(2); 2(9); 3; 4; 139(1); 40A(3)

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 194C(2); 194C(3)

Role: principal withholding obligation

Basis: Resident truck operators engaged to perform the appellant contractor's transport obligation were sub-contractors; the challenged payments exceeded Rs. 20,000 per bilty/challan.

2.

Act: Income-tax Act, 1961

Section: 40(a)(ia)

Role: principal disallowance provision

Basis: Paid-versus-payable interpretation; first assessment year of application; rejection of retrospective application of the 2014 30% amendment to AY 2005-06.

3.

Act: Income-tax Act, 1961

Section: 194C(1); 200; 201

Role: withholding scheme and consequences

Basis: The judgment reads deduction, remittance and default provisions together; it does not separately determine a quantified section 201 demand or penalty.

4.

Act: Income-tax Act, 1961

Section: 2(9); 3; 4

Role: assessment-year framework

Basis: Definitions and charge explain why a provision effective 1 April 2005 applies from AY 2005-06.

5.

Act: Income-tax Act, 1961

Section: 43(2)

Role: interpretive contention rejected

Basis: The definition of paid does not narrow section 40(a)(ia) to amounts outstanding at year-end.

6.

Act: Income-tax Act, 1961

Section: 139(1)

Role: historical remittance-relief context

Basis: The 2008 and 2010 amendments concerning deposit of deducted TDS by the return-filing due date are distinguished from the 2014 substantive percentage reduction.

7.

Act: Income-tax Act, 1961

Section: 40A(3)

Role: analogy and historical background

Basis: Cash-payment splitting and compliance purpose are discussed; the contested Rs. 57,11,625 disallowance was under section 40(a)(ia), not a fresh section 40A(3) determination.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dinesh Maheshwari, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 61 PDF pages; SHA-256 816ad002213e942ff8f49f951c4736ba5914d0f3130d4e91a04db9e0501d5acd. Original bytes preserved. Official judgment paragraphs 1-22 on physical pages 1-61; signatures, date and disposition on page 61. Cover, signatures/date, selected substantive passages and operative disposition checked against the fully read reported judicial text; not a claim that every page of the separate official rendition was independently reread.

[Open cited source rendition](#)

The Court expressly corrects the Tribunal-order commencement-date typo: section 40(a)(ia) was inserted with effect from 1 April 2005, not 1 April 2004.

The reported cover headnote contains an abbreviated/mistyped section 194(2) reference; the holding and note use section 194C(2).

The downloaded official rendition bears a later electronic authentication date; its judicial date remains 29 July 2020 as shown on the signed final page.

The 2012 payee-return proviso appears in a quoted later statutory version; its retrospective applicability was not separately decided here.

Reported citation verified on the reported cover; 2020 INSC 468 is visible on the downloaded official PDF cover, not merely inferred from catalogue metadata.

The case concerns AY 2005-06 and the corresponding financial year 2004-05. The discussion of AY 2015-16 concerns the effective date of the later 30% amendment, not an additional assessment in this appeal.

STATUTORY SCOPE

Sections 194C and 40(a)(ia) for AY 2005-06, with the judgment's historical comparison of the 2008, 2010 and 2014 amendments; no comprehensive later-law audit.

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: 61](#)

SHA-256: 816ad002213e942ff8f49f951c4736ba5914d0f3130d4e91a04db9e0501d5acd

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

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