

Principal Commissioner of Income Tax-III, Bangalore and Another v. M/s Wipro Limited

Civil Appeal No. 1449 of 2022

[2022] 17 S.C.R. 36 | 2022-07-11

Whether an assessee seeking to opt out of section 10B must furnish its written declaration to the Assessing Officer before the section 139(1) return due date, and whether a later declaration and revised return could secure the claimed loss carry-forward despite that missed deadline.

10B(8) | 10B(5) | 139(1) | 139(3) | 139(5) | 72 | 80

Two-judge bench | M. R. Shah, J. | B. V. Nagarathna, J.

Assessment years: 2001-02

01 FACTS OF THE CASE

Wipro Limited, described by the Court as a 100% export-oriented unit operating a call centre and IT-enabled and remote-processing services, filed its original return on 31 October 2001 for AY 2001-02. It declared a loss of Rs 15,47,76,990, claimed the benefit of section 10B and attached a computation note stating that no loss was being carried forward. It subsequently furnished a declaration dated 24 October 2002 opting out under section 10B(8), and filed a revised return on 23 December 2002 withdrawing the section 10B claim and seeking carry-forward of losses. The Assessing Officer rejected the opt-out on 31 March 2004 because the declaration was not furnished before the original-return due date of 31 October 2001. CIT(A) upheld that result on 19 January 2009. The Tribunal allowed the assessee's claim on 25 November 2016, and the Karnataka High Court dismissed the Revenue's appeal in ITA 462/2017 on 30 November 2020. The Revenue appealed to the Supreme Court. Paragraph 2.3's account of a Tribunal statement that the declaration was timely is not adopted as a factual finding: paragraphs 2 and 6 identify a late declaration, and paragraph 3.1 records the Revenue's objection to the Tribunal's timing statement.

Source: [reported rendition / paragraphs 1-2.4 / PDF pages 5, 6 / judgment](#); [reported rendition / paragraphs 3.1; 6 / PDF pages 6, 7, 14, 15 / mixed judgment and attributed Revenue submission](#); [official signed judgment / paragraphs 1-2.4 / PDF pages 1, 2, 3 / judgment](#); [official signed judgment / paragraphs 3.1; 6 / PDF pages 4, 17 / mixed judgment and attributed Revenue submission](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read section 10B(8) as imposing two mandatory conditions: a written declaration to the Assessing Officer that section 10B should not apply, and furnishing that declaration before the due date for the original return under section 139(1). Its language was clear; the Court rejected the division of the declaration requirement into a mandatory act and a merely directory time limit. The decisive provision concerns opting out of section 10B, even though the judgment sometimes describes this as claiming an exemption or benefit under section 10B(8) (paragraphs 5-8, 12 and 14).

The revised return did not cure the default. The original return had been filed under section 139(1), not section 139(3). The Court held that the later section 139(5) return could not transform it into the loss return needed for the claimed benefit under section 80, nor use withdrawal of the section 10B claim to overcome the expired section 10B(8) deadline. Paragraph 9 also recognises revision for an omission or wrong statement. Its language must therefore be read in the setting of this late opt-out and contrary loss-carry-forward claim, rather than as a statement that all revised returns are ineffective. The Court rejected the alternative argument that delivery of a declaration during assessment proceedings would suffice. It reasoned that the section 10B(5) accountant-report check operated at return filing and would be nullified by the later withdrawal (paragraphs 9-10).

The Court distinguished CIT v. G.M. Knitting Industries Pvt. Ltd., (2016) 12 SCC 272, involving additional depreciation under section 32(1)(ii-a). It required strict compliance with the section 10B(8) provision and did not transpose the assessee's Chapter VI-A timing authorities into this Chapter III context. The assessee's reliance on CIT v. Yokogawa India Ltd. appears in paragraph 4.11 as a submission; the Court did not pronounce an express overruling of that authority. Finally, the earlier withdrawal of the Revenue's SLP in Moser Baer did not bar its contention: that withdrawal was for low tax effect with the question of law expressly left open (paragraphs 11-13).

Source: [reported rendition / paragraphs 5-9 / PDF pages 14, 15, 16 / judgment](#); [reported rendition / paragraphs 10-13 / PDF pages 16, 17, 18 / judgment](#); [reported rendition / paragraphs 4.11 / PDF pages 14 / assessee submission](#); [official signed judgment / paragraphs 5-9 / PDF pages 16, 17, 18, 19, 20 / judgment](#); [official signed judgment / paragraphs 10-13 / PDF pages 20, 21, 22, 23 / judgment](#); [official signed judgment / paragraphs 4.11 / PDF pages 16 / assessee submission](#)

03 JUDICIAL DECISION

The Revenue's appeal was allowed. The Supreme Court answered the question of law in favour of the Revenue and against the assessee, set aside the High Court and Tribunal orders, and held that the assessee was not entitled to the section 10B(8) benefit because both mandatory conditions had not been met. This defeated the attempted late opt-out underlying the claimed carry-forward of losses. There was no remand and no order as to costs (paragraph 14).

Source: [reported rendition / paragraphs 14 / PDF pages 18 / judgment](#); [official signed judgment / paragraphs 14 / PDF pages 23, 24 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Revenue appeal allowed; High Court and Tribunal orders set aside; section 10B(8) benefit denied for failure to meet the mandatory conditions; no costs

Statutory deadline and effect of the attempted late opt-out decided on merits

Decision concerns AY 2001-02 and the historical section 10B(8) opt-out route. It does not decide every revised-return claim, a general power to condone delay, or additional depreciation eligibility.

Source: [reported rendition / paragraphs 14 / PDF pages 18 / judgment](#); [official signed judgment / paragraphs 14 / PDF pages 23, 24 / judgment](#)

05 AKHB REVIEW POINT

For a legacy section 10B file, record the exact assessment year, statutory return due date, proof of delivery of the written opt-out to the Assessing Officer, original-return position, accountant's report and proposed loss treatment. A timely original return reporting a loss did not rescue Wipro's late section 10B(8) election. Keep the declaration date distinct from the revised-return date and do not assume assessment-stage filing can cure this deadline. Read paragraph 9 together with the missed opt-out deadline and its express recognition of correction of omissions or wrong statements; it should not become a universal rule against amended claims. Similarly, the discussion of the accountant's report is statutory reasoning, not a separate finding of professional misconduct. Treat any different relief provision, later statutory text or later authority as a separate research question. This note makes no automatic mapping to the Income-tax Act, 2025 and no present-law certification.

Source: [reported rendition / paragraphs 2-2.1; 6; 8-14 / PDF pages 5, 6, 14, 15, 16, 17, 18 / judgment](#); [official signed judgment / paragraphs 2-2.1; 6; 8-14 / PDF pages 2, 17, 18, 19, 20, 21, 22, 23, 24 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

10B; 32(1)(ii-a); 80HHC; 153(1)

PROVISION-SPECIFIC SCOPE

1.

Section: 10B(8)

Role: Controlling opt-out declaration and due-date provision; construed and applied in paragraphs 8-14

2.

Section: 10B(5)

Role: Accountant-report safeguard considered in paragraph 10; not the opt-out declaration provision

3.

Section: 139(1)

Role: Original-return due date supplies the statutory deadline for the opt-out

4.

Section: 139(3), 139(5), 72 and 80

Role: Loss-return, revised-return and loss-carry-forward framework addressed in paragraph 9 and the procedural history

5.

Section: 32(1)(ii-a)

Role: Additional-depreciation comparison advanced by assessee and distinguished in paragraph 11; not an additional-depreciation claim decided in this appeal

6.

Section: 80HHC and 153(1)

Role: Appear in descriptions of cited authorities or assessee submissions; no independent claim under them decided

SOURCE & VERIFICATION

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

Identified source rendition: 18 PDF pages; SHA-256
6db570347cccb60710c49df0a4a99e2b0c9423267a6e9d5eb539adb20cd4f03d. Original bytes preserved.

[Open cited source rendition](#)

This is Wipro Limited, Civil Appeal 1449/2022, decided 11 July 2022; it is not Wipro Finance Ltd., decided 12 April 2022.

Judicial text begins partway through SCR physical page 5 and ends on page 18. Earlier headnote and case-law reference are editorial; no neighbouring judgment contaminates the asset.

Both renditions reproduce paragraph 2.3 reporting an ITAT statement that the declaration preceded the due date. Paragraph 2 gives declaration date 24 October 2002; the due date was 31 October 2001; paragraph 6 expressly treats the declaration as late. The contrary timing statement is attributed to the Tribunal and not adopted.

Paragraph 9 contains both a statement that a revised return can substitute the original section 139(1) return and later language that substitution cannot be permitted. The note preserves the clear late-opt-out holding and the express omission/wrong-statement exception rather than extracting a general ban on revised returns.

Paragraph 5 and other passages use exemption terminology for section 10B(8), but the operative statutory step was an opt-out from section 10B. The public note identifies that function explicitly.

Some Revenue-submission passages refer to section 10B(5) when describing the declaration. Section 10B(8), reproduced in paragraph 8 and applied in paragraph 14, is the controlling declaration provision; section 10B(5) concerns the accountant-report safeguard.

G.M. Knitting was distinguished; Yokogawa was cited in assessee submissions, with no express overruling pronounced. The Moser Baer SLP withdrawal is not treated as a merits endorsement.

Source metadata neutral citation 2022INSC687 remains unverified; the verified displayed citation is [2022] 17 S.C.R. 36.

SCR citation verified on physical PDF page 1. The consolidated index records 2022INSC687; that neutral citation is not printed in either inspected PDF and is not represented as independently verified.

AY 2001-2002 is expressly identified in paragraph 2; no other assessment year is determined by this judgment.

Arising out of SLP (Civil) No. 7620/2021. This is the section 10B(8) Wipro Limited decision, distinct from Wipro Finance Ltd. v. CIT, decided on 12 April 2022.

STATUTORY SCOPE

Historical section 10B and return/loss provisions as examined for AY 2001-02 in this judgment; no independent consolidated current-statute audit

No automatic mapping to the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported rendition - Physical PDF page 1 - PDF pages: 18](#)

SHA-256: 6db570347cccb60710c49df0a4a99e2b0c9423267a6e9d5eb539adb20cd4f03d

[official signed judgment - PDF pages: 24](#)

SHA-256: b7d246d5deee6e72e07d7178ef1ea186343b6af1693b67b1753faced3dc5c81f

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.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.