

Commissioner of Income Tax 7 v. M/s Paville Projects Pvt. Ltd.

Civil Appeal No. 6126 of 2021

[2023] 3 S.C.R. 310 | 2023-04-06

Whether section 263 revision was valid where the assessment accepted shareholder-settlement payments as cost of improvement in computing capital gains on the company's property.

263

Two-judge bench | M.R. Shah, J. | A.S. Bopanna, J.

Assessment years: 2007-08

01 FACTS OF THE CASE

The company sold Paville House for Rs 33 crore in AY 2007-08. Following family-shareholder litigation and an arbitral settlement, it claimed Rs 31.05 crore paid to shareholders as expenditure removing encumbrances and therefore cost of improvement. The Assessing Officer accepted the computation. The Commissioner revised under section 263, finding the allowance contrary to the statutory cost-of-improvement requirements and directing recomputation. The Tribunal treated the officer's approach as a permissible view and cancelled revision; the Bombay High Court upheld that result.

Source: [reported supreme court judgment / paragraphs 1-3.6 / PDF pages 3, 4, 5](#)

02 DISCUSSION BY THE HON'BLE COURT

Applying Malabar Industrial, the Court reaffirmed that both error and prejudice to Revenue are required. Loss of revenue alone is insufficient where the Assessing Officer has adopted one of two legally permissible views. But an erroneous order causing loss of lawfully payable tax is prejudicial. On examining this assessment and the Commissioner's order, the Court found both conditions satisfied. It rejected the proposition that the Commissioner had assumed jurisdiction not vested in him and sustained the revision on these facts.

Source: [reported supreme court judgment / paragraphs 7-7.3 / PDF pages 9, 10, 11](#)

03 JUDICIAL DECISION

The Revenue's appeal was allowed. The High Court judgment was set aside and the Commissioner's section 263 order was restored. No costs were awarded. The restored order required capital gains to be recomputed in accordance with the Act.

Source: [reported supreme court judgment / paragraphs 8 / PDF pages 11](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Appeal allowed; Commissioner's revision order restored; no costs

Section 263 jurisdiction sustained; recomputation direction restored

The Court did not calculate a fresh final tax amount. The decision should not be converted into a categorical rule governing every litigation settlement, encumbrance-removal cost or permissible-view dispute.

Source: [reported supreme court judgment / paragraphs 8 / PDF pages 11](#)

05 AKHB REVIEW POINT

Separate the company's asset rights from disputes about shareholders' interests. Establish the legal and factual connection between the payment and the statutory capital-gains deduction, rather than relying on the commercial need to end litigation alone. In resisting revision, identify a genuinely sustainable legal view in the assessment; calling an allowance plausible does not protect an order the Court finds both erroneous and prejudicial.

Source: [reported supreme court judgment / paragraphs 3.1-3.3, 7.1-7.3 / PDF pages 3, 4, 9, 10, 11](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

55(1)(b); 143(3); 50A

PROVISION-SPECIFIC SCOPE

263: Dispositive revisional-jurisdiction issue

55(1)(b): Underlying cost-of-improvement claim

143(3): Original assessment

50a: Printed in the Commissioner/Revenue narrative; no separate general interpretation by the Court

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported supreme court judgment\)](#)

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The source prints the assessment date as 15 December 2019 although revision and related proceedings are recorded in 2011. The inconsistent date is not used to establish a limitation conclusion.

The narrative inconsistently mentions Rs 10.33 crore and Rs 10.35 crore per shareholder. The central deduction of Rs 31.05 crore is retained; no separate payment is invented.

Sections 50A and 55(1)(b) appear in the Commissioner's reasoning. The operative Supreme Court analysis is section 263, not a free-standing detailed ruling under every mentioned section.

STATUTORY SCOPE

Historical provisions and years as considered in the judgment; no comprehensive subsequent-law or 2025 Act check.

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

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