

M/s. D. N. Singh v. Commissioner of Income Tax, Central, Patna and Another

Civil Appeal Nos. 3738-3739 of 2023 / Arising out of SLP (Civil) Nos. 10617-10618 of 2023, Diary No. 7803 of 2018

[2023] 7 S.C.R. 530 | 2023-05-16

Whether a carriage contractor allegedly retaining short-delivered bitumen could be treated as its owner, and whether bitumen was an other valuable article, so that its value could be deemed income under section 69A.

69A

Two-judge bench | K. M. Joseph, J. | Hrishikesh Roy, J.

Assessment years: 1996-97

01 FACTS OF THE CASE

The assessee transported bitumen lifted from HPCL, IOCL and BPCL at Haldia to divisions of the Bihar Road Construction Department. Following allegations of short delivery, the Assessing Officer added Rs 1,04,71,720.30 under section 69A for AY 1996-97, representing 2,094.52 metric tonnes treated as undelivered. The Commissioner (Appeals) deleted the addition, but the Tribunal restored it and the Patna High Court upheld the section 69A treatment. The assessee challenged both the High Court judgment and the dismissal of its review petition. A separate AY 1995-96 assessment had been remanded through different appellate and rectification proceedings; the assessee relied on that procedural difference. The Supreme Court addressed the ownership and valuable-article requirements while proceeding on the Revenue's short-delivery premise, rather than deciding that the disputed deliveries actually occurred.

Source: [reported judgment rendition / paragraphs 3-9 / PDF pages 12, 13 / judgment / K. M. Joseph, J.](#); [reported judgment rendition / paragraphs 11-16 / PDF pages 15, 16, 17, 18 / judgment / K. M. Joseph, J.](#); [reported judgment rendition / paragraphs 60-63 / PDF pages 50, 51, 52, 53 / judgment / K. M. Joseph, J.](#)

02 DISCUSSION BY THE HON'BLE COURT

K. M. Joseph J. treated ownership as an indispensable statutory condition, alongside non-recording in the books and the absence of a satisfactory explanation of acquisition. Possession can support an inference of ownership in an appropriate unexplained-possession case, but a carrier receives goods as a bailee and does not thereby acquire the owner's rights. Even assuming deliberate non-delivery and an unauthorised sale, the carrier did not obtain ownership against the consignor or consignee. The possibility that illegal-business income is taxable did not dispense with section 69A's separate conditions. Independently, an other valuable article must have substantial intrinsic value, rather than acquire a large aggregate value only because a commonplace, low-unit-value commodity is held in bulk. Bitumen valued at about Rs 5 per kilogram in the relevant financial year did not qualify. Joseph J. did not adopt a closed precious-metals genus: he discussed valuable watches, expensive phones and cameras, and questioned the application of ejusdem generis in that form. Hrishikesh Roy J., in a separately numbered concurrence, agreed on both dispositive conclusions and used ejusdem generis, noscitur a sociis and strict fiscal interpretation to reinforce the distinction between high-priced articles and ordinary goods made costly only by bulk.

Source: [reported judgment rendition / paragraphs 24-27 / PDF pages 20, 21, 22 / judgment / K. M. Joseph, J.](#); [reported judgment rendition / paragraphs 29-31, 39 / PDF pages 22, 23, 28 / judgment / K. M. Joseph, J.](#); [reported judgment rendition / paragraphs 47, 58-63 / PDF pages 31, 32, 50, 51, 52, 53 / judgment / K. M. Joseph, J.](#); [reported judgment rendition / paragraphs 77-79 / PDF pages 59, 60, 61 / judgment / K. M. Joseph, J.](#); [reported judgment rendition / paragraphs 1-3, 8-11, 15-17 / PDF pages 61, 62, 64, 65, 66, 67, 68 / concurring judgment / Hrishikesh Roy, J.](#)

03 JUDICIAL DECISION

Both judges held that this carrier was not the owner of the bitumen for section 69A and that the bitumen was not an other valuable article within that provision. The assessee's appeals were allowed, the impugned judgment was set aside and the Commissioner (Appeals)' deletion of the addition was restored on different grounds. Joseph J. expressly did not decide the remaining questions about valuation or the allegedly contradictory Tribunal orders for the two assessment years.

Source: [reported judgment rendition / paragraphs 79 / PDF pages 61 / judgment / K. M. Joseph, J.](#); [reported judgment rendition / paragraphs 19 / PDF pages 68, 69 / concurring judgment / Hrishikesh Roy, J.](#); [official signed judgment / paragraphs 79 / PDF pages 89, 90 / judgment / K. M. Joseph, J.](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Both appeals allowed; impugned judgment set aside; Commissioner (Appeals) order deleting the AY 1996-97 section 69A addition restored on different grounds

Section 69A addition rejected on ownership and valuable-article grounds

No finding that delivery was proved, no exoneration from civil or criminal liability, no general exemption of illegal income, and no decision on valuation or the consistency of the separate assessment-year Tribunal orders.

Source: [reported judgment rendition / paragraphs 79 / PDF pages 61 / judgment / K. M. Joseph, J.; official signed judgment / paragraphs 79 \(concluding disposition\) / PDF pages 90 / judgment / K. M. Joseph, J.; official signed judgment / paragraphs 19 \(concluding concurrence\) / PDF pages 109 / concurring judgment / Hrishikesh Roy, J.](#)

05 AKHB REVIEW POINT

Analyse a section 69A addition condition by condition. Preserve the carriage contract, consignor/consignee records and evidence of who had title or a better possessory right; custody alone is not decisive where the bailment is established. Separately identify why the asset qualifies as a valuable article, examining its inherent and per-unit character rather than only the total consignment value. This decision defeats the particular deeming route; it does not establish that proceeds of wrongdoing are tax-free, or decide whether another charging or deeming provision could apply on different established facts. When citing the case, identify the author because the two opinions use different interpretive routes.

Application under the 2025 Act remains a separate statutory exercise.

Source: [reported judgment rendition / paragraphs 27, 39, 47, 59-63 / PDF pages 21, 22, 28, 31, 32, 50, 51, 52, 53 / judgment / K. M. Joseph, J.; reported judgment rendition / paragraphs 77-79 / PDF pages 59, 60, 61 / judgment / K. M. Joseph, J.; reported judgment rendition / paragraphs 3, 10-11, 16-19 / PDF pages 62, 65, 66, 68, 69 / concurring judgment / Hrishikesh Roy, J.](#)

LEAD AND SEPARATE CONCURRING OPINIONS

1.

Author: K. M. Joseph, J.

Role: lead_judgment

Paragraphs: 1-79

Reported pdf pages: 12; 61

Original pdf pages: 1; 90

Paragraph numbering: Independent sequence; embedded quoted precedent paragraphs do not form part of this sequence

2.

Author: Hrishikesh Roy, J.

Role: separate_concurrence

Paragraphs: 1-19

Reported pdf pages: 61; 69

Original pdf pages: 91; 109

Paragraph numbering: Restarts at 1; printed original pp. 1-19

DISTINCT ISSUES AND OUTCOMES

1.

Group: AY 1996-97 section 69A addition; appeals against main judgment and review dismissal

Result: Assessee succeeds; deletion restored on ownership and valuable-article grounds

Pinpoint: Joseph J. para 79; reported physical p. 61

2.

Group: Valuation and alleged contradictory treatment of AYs 1995-96 and 1996-97

Result: Not pronounced upon; not a merits ruling for AY 1995-96

Pinpoint: Joseph J. paras 28(III)-(IV), 79; reported physical pp. 22, 61

QUESTIONS LEFT UNRESOLVED

How the bitumen should be valued: expressly not decided; Whether the Tribunal erred in different orders for AYs 1995-96 and 1996-97: expressly not decided

DISTINCTION FROM RELATED CASES

Unlike Prakash Chand Lunia, this is a section 69A threshold-ownership/valuable-article case. It is not a claim to deduct a confiscation loss from an accepted deeming-income addition.

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

69; 69B; 69C; 22; 27; 32; 45; 56; 132; 154; 257; 260A

SOURCE & VERIFICATION

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

Identified source rendition: 69 PDF pages; SHA-256

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Two separately authored and separately numbered opinions: Joseph J. paras 1-79; Roy J. paras 1-19. Do not flatten the concurrence into the lead opinion or count it as another judgment.

Reported PDF pp. 1-10 are headnotes/case-law references; p. 11 contains procedural metadata, counsel and the lead opinion index. Judicial paragraphs start at p. 12. No adjoining case is present.

Joseph J. para 77 questions using ejusdem generis to exclude valuable watches and permits other high-priced movables; Roy J. paras 10-11 expressly uses ejusdem generis and noscitur a sociis. The shared outcome does not erase this difference.

AY 1995-96 and AY 1996-97 references in the quoted High Court review reasoning are inconsistent. The appealed AY is anchored to Joseph J. paras 4, 7, 9, 12 and 34; the consistency issue is expressly left undecided in para 79.

The source has numerical variants: para 7 gives Rs 1,04,71,720.30, also used in para 78; para 14 says Rs 1,04,72,720.30. Facts retain the repeatedly stated assessment figure with the inconsistency disclosed here. No reconciliation of all 1995-96 quantity/amount variants is claimed.

Joseph J. para 24 says commencement 01.05.1964 while para 26 says 01.04.1964. This historical statutory-date discrepancy is not silently resolved or used in the note.

Some ancillary statutory references appear typographically inconsistent, including Contract Act section 58 in para 37 and the illustration said to be under IPC section 406 in para 60; the text of section 405 and its illustration is set out at para 41. The note avoids turning these slips into freestanding propositions.

Reported index page references follow original judgment pagination and are not physical pages of the reported PDF. Every supplied pinpoint labels the rendition and uses one-based physical pages.

The original digital-signing timestamp is later than the judgment date; decision date follows the judicial dated signature pages, 16 May 2023.

No later-treatment or current-law certification; no automatic Income-tax Act, 2025 mapping.

SCR citation, date and two-appeal identity verified at reported PDF p. 1. SLP/diary identity and date independently checked in the official original at physical pp. 1, 90, 91 and 109. Indexed neutral-citation metadata 2023INSC543 is not independently certified or substituted for the verified SCR citation.

The appealed assessment is AY 1996-97: Joseph J., paras 4, 7, 9, 12 and 34. AY 1995-96 is a separate assessment discussed as procedural background; it is not a second assessment finally disposed of on the merits in these Supreme Court appeals. The paired Supreme Court appeals challenge the Patna High Court main judgment of 5 March 2009 and review order of 18 December 2017.

STATUTORY SCOPE

1961 Act issues as adjudicated in this judgment; no independent 2025 Act mapping

No automatic mapping to, or certification of applicability under, the Income-tax Act, 2025; governing tax year, exact statutory text and savings provisions require separate review.

LATER TREATMENT

Source checked 2026-10-04. Subsequent reviews, 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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