

Pride Foramer S.A. v. Commissioner of Income Tax & Anr.

Civil Appeal Nos. 4395-4397 of 2010

2025 INSC 1247 | 2025-10-17

Whether the French drilling company continued carrying on business during a contract gap, permitting business-expense deductions and unabsorbed-depreciation relief for the years concerned.

37(1) | 71 | 32(2)

Two-judge bench | Manoj Misra, J. | Joymalya Bagchi, J.

Assessment years: 1996-97, 1997-98, 1999-2000

01 FACTS OF THE CASE

The French company's ONGC drilling contract ran from 1983 to 1993. Another was awarded in October 1998 and formalised in January 1999. During the intervening period it continued correspondence from its Dubai and French offices and submitted a bid in 1996. It claimed administrative and professional expenses and relief for earlier unabsorbed depreciation against income that included interest on tax refunds. The Assessing Officer and CIT(A) treated the business as discontinued. The Tribunal found only a temporary lull and allowed relief; the Uttarakhand High Court reversed, relying on the absence of an Indian office and a subsisting contract.

Source: [paragraphs 1-7 / PDF pages 1, 2, 3, 4, 5, 6, 7](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court examined conduct from a prudent businessperson's standpoint. Continued correspondence, efforts to obtain work and the unsuccessful bid demonstrated an intention to carry on business; failure to secure a contract was not conclusive of cessation. It also rejected the inference that the absence of a permanent establishment or correspondence from a foreign office necessarily meant no business was carried on in India. Domestic-law business connection and treaty permanent-establishment questions are distinct; treaty relief was not the issue being decided. The judgment expressly notes that the historical business-continuance proviso to section 32(2) had been omitted with effect from 1 April 2002.

Source: [paragraphs 9-20 / PDF pages 8, 9, 10, 11, 12](#)

03 JUDICIAL DECISION

The assessee's appeals were allowed. The High Court judgment was set aside, the Tribunal's orders were revived, and the Assessing Officer was directed to pass fresh assessment orders for the relevant years in accordance with the Tribunal's orders.

Source: [paragraphs 21 / PDF pages 13](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeals allowed; ITAT orders restored; consequential fresh assessments directed

Business-continuity issue decided; implementation left to the Assessing Officer

A fact-supported temporary lull was found. The case does not decide treaty entitlement or dispense with year-specific deduction and set-off conditions.

Source: [paragraphs 21 / PDF pages 13](#)

05 AKHB REVIEW POINT

For an inactive or lean period, preserve contemporaneous bids, correspondence, business-maintenance costs and later resumption evidence. The question is whether the business continued through a temporary lull, not simply whether turnover or a live contract existed. Keep treaty permanent establishment analysis separate. Do not use the pre-2002 depreciation condition discussed here as a current statutory requirement.

Source: [paragraphs 10, 12-19 / PDF pages 8, 9, 10, 11, 12](#)

SOURCE & VERIFICATION

Original Hon'ble Supreme Court PDF

Complete identified source PDF: 13 pages. Original bytes preserved.

Open cited source rendition

Signed judgment date and digital signature are 17 October 2025. The eSCR query metadata had 10 October 2025; canonical publication date follows the original signed judgment, with the discrepancy retained.

Paragraph 4 quotes the Tribunal. The Court's own reasoning is paragraphs 9-20 and operative disposition paragraph 21.

The judgment records tax-refund interest under other sources in paragraph 5; do not present this as a holding that all such interest is business income.

STATUTORY SCOPE

Historical assessment years and statutory version. Section 32(2) amendment noted as explained in paragraph 10; no comprehensive later-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

[official signed judgment - PDF pages: 13](#)

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