

M/s Jindal Equipment Leasing Consultancy Services Ltd. v. Commissioner of Income Tax Delhi - II, New Delhi

Civil Appeal No. 152 of 2026 / Civil Appeal No. 153 of 2026 / Civil Appeal No. 154 of 2026 / Civil Appeal No. 155 of 2026

[2026] 1 S.C.R. 517 : 2026 INSC 46 | 2026-01-09

Whether substitution of shares on amalgamation can produce taxable business income under section 28 where the old shares are trading stock, and what receipt, valuation and realisability conditions govern that charge; also whether the High Court could address the section 28 issue before remanding when it had not separately formulated that precise substantial question of law.

28 | 47(vii) | 260A

Two-judge bench | J. B. Pardiwala, J. | R. Mahadevan, J.

Assessment years: 1997-98

01 FACTS OF THE CASE

Four Jindal Group investment companies appealed from the Delhi High Court's common judgment of 7 August 2020 concerning AY 1997-98. They held promoter shares in Jindal Ferro Alloys Ltd. (JFAL) and Jindal Strips Ltd. (JSL), reflecting controlling interests. Their balance sheets described the holdings as investments, and non-disposal undertakings had been given to the operating companies' lenders. Those facts did not finally resolve the disputed tax classification. JFAL amalgamated into JSL under scheme-sanction orders of the Andhra Pradesh and Punjab & Haryana High Courts dated 19 September and 3 October 1996. The appointed date was 1 April 1995; the sanction orders were filed with the Registrar on 22 November 1996, described as the effective date. JFAL shareholders received 45 JSL shares for each 100 JFAL shares. No separate calendar date of actual allotment is identified in the judgment.

The appellants claimed section 47(vii) treatment on the basis of capital holdings. In the assessment described as dated 29 February 2000 under section 143(3), the Assessing Officer treated the JFAL shares as stock-in-trade and denied the exemption. Paragraph 8.1 describes the addition as the difference between the JSL shares' value on the appointed date and the JFAL shares' book value. CIT(A) upheld the assessment. The Tribunal allowed the assessee's appeals on 17 February 2005 without deciding capital-versus-trading classification: relying on *Rasiklal Maneklal*, it held that no taxable profit arose without a sale or transfer for consideration. The High Court set that order aside and remanded, holding that section 47(vii) was confined to capital assets and that receipt of substituted trading shares could yield section 28 income. The Supreme Court recorded its interim stay of the High Court judgment on 10 February 2021. The assessee challenged both the High Court's section 260A jurisdiction and its business-income reasoning. Their assertions that every gain remained hypothetical until sale, and their cost-carryover analogy, were submissions, not the eventual holding.

Source: [reported rendition / paragraphs 2-3.7 / PDF pages 9, 10, 11, 12 / judgment](#); [reported rendition / paragraphs 7-8.3 / PDF pages 18, 19 / judgment](#); [official signed judgment / paragraphs 2-3.7 / PDF pages 2, 3, 4, 5, 6 / judgment](#); [official signed judgment / paragraphs 7-8.3 / PDF pages 15, 16 / judgment](#); [reported rendition / paragraphs 4-5.11 / PDF pages 12, 13, 14, 15, 16, 17, 18 / party submissions](#)

02 DISCUSSION BY THE HON'BLE COURT

The section 260A objection failed on the particular procedural record. The Court acknowledged the statutory requirement to formulate substantial questions and the proviso permitting additional questions for recorded reasons. But this taxability issue arose from the Tribunal's own enquiry and the broadly framed transfer question; it was incidental to the dispute, had been addressed by both sides, and the High Court had remanded rather than itself assessed income under a new head. Shiv Raj Gupta was distinguished for its absence of notice and opportunity on the new basis of charge. The reasoning is not permission to bypass section 260A whenever the court thinks an issue important (paragraphs 9-9.6).

For the substantive issue, sections 28 and 45 operate in different fields. A technical sale, exchange or transfer under section 2(47) is not a prerequisite to real business profit under section 28. The Court treated amalgamation as statutory substitution, not a bilateral exchange in the strict sense, while recognising Grace Collis on transfer for capital gains. Neither label alone determines business-income liability. Section 47(vii) is a conditional capital-asset exemption and cannot by itself shelter stock-in-trade. Orient Trading supported the proposition that realisation can take place in kind; E.D. Sassoon, Shoorji Vallabhdas, the money's-worth authorities and commercial-accounting cases supplied the real-income limits (paragraphs 12.1, 15-24 and 27).

The controlling enquiry is whether, through its business, the assessee has received a real and presently disposable commercial benefit. Relevant matters include cessation of the old trading holding, definite and ascertainable value of the new shares, and the ability immediately upon allotment to dispose of them for money. Mere substitution or an accounting increase is insufficient. The Court illustrated the problem with shares under a statutory lock-in and shares of a closely held unquoted company lacking an open market for disposal valuation; these are illustrations, not factual findings about JSL. Where the requisite benefit is absent, the Court said taxation cannot be imposed merely on hypothetical accretion and described income as deferred until actual sale. The Revenue bears the burden of establishing the fact-sensitive commercial benefit, and the Tribunal must apply the test to the evidence (paragraphs 18.3-18.6, 23 and 24.2-24.3).

The final timing rule distinguishes the appointed date, court sanction, and actual allotment. Paragraphs 24.2, 25 and 30 hold that the section 28 charge in this setting crystallises upon allotment/receipt of new shares that are presently realisable and definitely valued, rather than merely at the appointed or sanction date. Subsequent market fluctuations do not make a commercially realisable benefit hypothetical at allotment (paragraph 26). Paragraph 17.1 earlier mentions the possibility of a scheme creating an earlier vested, imminent enforceable allotment right, but no such right or earlier charge is found here; it must not be used to displace the explicit conclusion in paragraph 30.

The Court therefore upheld the legal possibility of taxation without an actual subsequent sale, but left the crucial facts open: whether the shares were investments or trading stock, whether the received shares were freely realisable or restricted, and application of valuation

02 DISCUSSION BY THE HON'BLE COURT

and real-income principles. General anti-avoidance observations in paragraph 27.3 do not amount to a final finding that these appellants carried out a sham or evasion scheme.

Source: [reported rendition / paragraphs 9-9.6 / PDF pages 19, 20, 21, 22, 23, 24, 25 / judgment](#); [reported rendition / paragraphs 12-12.1; 15-15.3 / PDF pages 26, 27, 28, 29, 30, 31, 32 / judgment](#); [reported rendition / paragraphs 16.3-18.6 / PDF pages 37, 38, 39, 40, 41 / judgment](#); [reported rendition / paragraphs 19-24.3 / PDF pages 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58 / judgment](#); [reported rendition / paragraphs 25-27.4 / PDF pages 58, 59, 60, 61 / judgment](#); [official signed judgment / paragraphs 9.3-9.6 / PDF pages 20, 21, 22, 23 / judgment](#); [official signed judgment / paragraphs 17.1-18.6 / PDF pages 36, 37, 38, 39, 40 / judgment](#); [official signed judgment / paragraphs 23-26 / PDF pages 50, 51, 52, 53, 54, 55, 56 / judgment](#)

03 JUDICIAL DECISION

The High Court judgment was affirmed. The preliminary section 260A objection was rejected, and the main section 28 issue was answered in favour of the Revenue in principle: substituted shares received for trading stock can generate taxable business profits when realisable in money and capable of definite valuation, with the charge arising upon actual allotment. Actual application, including investment-versus-stock classification and realisability restrictions, was remitted to the Tribunal for fresh adjudication in accordance with law. All four appeals and pending applications were disposed of; there was no order as to costs. The Supreme Court did not finally classify these holdings, compute an addition, uphold an identified numerical demand, or grant a final exemption.

Source: [reported rendition / paragraphs 29-34 / PDF pages 61, 62, 63 / judgment](#); [official signed judgment / paragraphs 29-34 / PDF pages 59, 60, 61 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on jurisdiction and the legal principle; final assessee-specific tax liability remains for Tribunal determination

High Court affirmed; four appeals disposed of with remand to the Tribunal for fresh factual adjudication; no costs

Legal questions decided; factual classification, restrictions and application of the taxable-profit test not finally decided

No categorical rule that all amalgamation allotments are taxable or tax-free. The note does not turn the AY 1997-98 decision into current-law certification, apply later deeming provisions retrospectively, or certify the outcome of the remand.

Source: [reported rendition / paragraphs 30-34 / PDF pages 62, 63 / judgment](#); [official signed judgment / paragraphs 30-34 / PDF pages 59, 60, 61 / judgment](#)

05 AKHB REVIEW POINT

Prepare the evidence in two distinct stages. First, establish why the original holding was an investment or trading stock; accounting labels, promoter purpose and actual dealing history matter, but classification remained open here. Second, if trading stock is established, document the actual allotment date, the shareholder's ability to dispose of the new shares, listing and market evidence, applicable lock-ins or lender non-disposal undertakings, and a defensible value on the relevant date. Do not replace the allotment date with the appointed or scheme-effective date, or assume the mere absence of a sale proves that no profit arose. Equally, section 47(vii)'s inapplicability does not itself prove a section 28 charge: real commercial benefit must be demonstrated, with the evidential burden identified by the Court resting on the Revenue.

Read the general discussion together with the final fact-sensitive holding and remand. Record the possible earlier-right observation in paragraph 17.1 without using it to override paragraphs 25 and 30. The statutory extracts require a historical-law check: paragraph 12 reproduces later section 28(iv) wording and the later inventory-conversion clause, while paragraph 3.2 mislabels the 1996 scheme provisions as belonging to the Companies Act, 2013. Those extracts are not an authenticated consolidation of the law applicable to AY 1997-98. No automatic mapping to, or carryover under, the Income-tax Act, 2025 is made. Verify later treatment and the Tribunal's eventual decision before relying on a claimed final tax result.

Source: [reported rendition / paragraphs 3.1-3.3; 12; 17.1; 18.3-18.6; 24.2-26; 30-34 / PDF pages 10, 11, 26, 27, 28, 38, 39, 40, 41, 57, 58, 59, 62, 63 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(1B); 2(14); 2(47); 28(i); 28(iv); 28(via); 45(1); 143(3); 49(1)(iii)(e)

PROVISION-SPECIFIC SCOPE

1.

Section: 28, especially the business-profit charge in 28(i)

Role: Substantive issue decided: receipt of substituted trading shares may produce taxable real business profit without an actual sale, subject to commercial realisability and definite valuation.

2.

Section: 47(vii), with 2(14), 2(47) and 45(1)

Role: Capital-asset distinction and conditional amalgamation exemption. Section 47(vii) does not exempt business stock; a capital holding and the statutory requirements must be established. The capital-asset transfer finding was no longer disputed in the Supreme Court (paragraph 8.3).

3.

Section: 260A(3), (4) and its proviso

Role: Preliminary jurisdiction objection rejected on this record; incidental taxability issue was within the dispute and parties had been heard. No general waiver of substantial-question formulation safeguards.

4.

Section: 2(1B)

Role: Definition of amalgamation reproduced as statutory background, not an independently contested qualification finding.

5.

Section: 28(iv)

Role: Reproduced and used in broad discussion of business benefits; paragraph 12 prints later substituted wording. The note does not certify that wording as the AY 1997-98 text.

6.

Section: 28(via); rule 11UAB

Role: Later inventory-conversion provision/rule used illustratively in the assessee's submissions; not the charging basis for this 1997-98 amalgamation.

7.

Section: 49(1)(iii)(e)

Role: Citation as recorded in the assessee's cost-carryover analogy in paragraph 4.5, not a Supreme Court determination of shareholder cost basis under that clause.

8.

Section: 143(3)

Role: Assessment procedure in factual narrative; its validity was not the point decided.

9.

Section: 37(1), 145, 234A, 41(1) and provisions of the 1922 Act within quoted cases

Role: Quoted-precedent context only; not separate issues adjudicated in these four appeals.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R. Mahadevan, J.

CONNECTED MATTERS AND THEIR SCOPE

1.

Case number: Civil Appeal No. 152 of 2026

Arising from: SLP (C) No. 2028 of 2021

Appellant: M/s Jindal Equipment Leasing Consultancy Services Ltd.

Respondent: Commissioner of Income Tax Delhi - II, New Delhi

2.

Case number: Civil Appeal No. 153 of 2026

Arising from: SLP (C) No. 2190 of 2021

Appellant: M/s Nalwa Investment Ltd.

Respondent: Commissioner of Income Tax - V, New Delhi

3.

Case number: Civil Appeal No. 154 of 2026

Arising from: SLP (C) No. 2188 of 2021

Appellant: M/s Abhinandan Tradex Ltd. (earlier known as M/s Abhinandan Investment Ltd.)

Respondent: Commissioner of Income Tax Delhi - I, New Delhi

4.

Case number: Civil Appeal No. 155 of 2026

Arising from: SLP (C) No. 2197 of 2021

Appellant: M/s Mansarover Tradex Ltd. (earlier known as M/s Mansarover Investment Ltd.)

Respondent: Commissioner of Income Tax Delhi - II, New Delhi

OTHER STATUTORY CONTEXT

1.

Act: Code of Civil Procedure, 1908

Sections: 100

Role: Analogy for the section 260A appellate jurisdiction discussion

2.

Act: Companies Act, 1956

Sections: 391-394

Role: Historical amalgamation scheme framework; paragraph 3.2 labels these provisions as Companies Act, 2013, an apparent source error expressly flagged below

3.

Act: Companies Act, 2013

Sections: 230-232

Role: General corporate-law explanation in paragraph 16.1; not the legislation under which the 1996 scheme was sanctioned

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 63 PDF pages; SHA-256

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[Open cited source rendition](#)

All judicial paragraphs, including long quotations and the actual operative order, were read. The reported judicial boundary begins partway through physical page 9 and ends at paragraph 34 on page 63; there is no neighbouring judgment contamination.

One common decision covers all four connected companies. The official cover controls the connected names, including Mansarover, and the bench is J. B. Pardiwala and R. Mahadevan. Search-result listings showing a different pronouncement-day court composition are not substituted for the deciding bench.

Revenue succeeds in principle; the formal disposition is appeals disposed of with High Court affirmed and Tribunal remand, not an unconditional dismissal affirming a quantified tax demand.

Investment balance-sheet classification and lender non-disposal undertakings are recorded facts. The actual tax classification and restrictions remain for factual determination under paragraph 31.

AY 1997-98 is express. The appointed date, sanction dates, Registrar filing/effective date and actual allotment must be distinguished. No exact allotment date or final tax amount is invented.

Paragraph 17.1 contains a possible earlier enforceable-right observation. The explicit later conclusion in paragraphs 24.2, 25 and 30 fixes the charge on qualifying actual allotment, and no earlier taxable right is found in these appeals.

Paragraph 12 is not a historically clean AY 1997-98 statutory consolidation: later section 28(iv) wording and inventory-conversion clause are printed. Section 2(1B) and section 47(vii) excerpts also should not be certified as period-specific text without a separate amendment audit.

The 1996 scheme is described in paragraph 3.2 under sections 391-394 of Companies Act 2013 in both renditions. This apparent source error is disclosed rather than silently relied upon.

Paragraph 17.1 states a 90% shareholder-vote requirement. It is not independently adopted as the corporate approval threshold applicable to this scheme or any present scheme; that general statement is outside the tax holding and requires separate historical company-law verification.

Paragraph 4.5 records an assessee analogy citing section 49(1)(iii)(e). The note neither endorses that pinpoint as the governing shareholder cost provision nor treats cost carryover as a decided issue.

No financial table or image-only substantive text was found in either rendition. The only embedded image in the official original is on the cover. Material statutory text, tests, connected captions and both dispositions were visually inspected.

Amounts and dates in quotations from Orient Trading, Raja Raghunandan, Raja Mohan, Ashokbhai and other cases are not imported into these appellants' facts. General anti-evasion discussion is not a factual finding of evasion by these appellants.

Grace Collis had overruled Vania Silk Mills on the relevant transfer reasoning; this judgment is not represented as newly overruling it. Rasiklal Maneklal's strict exchange analysis is distinguished from the section 28 realisation enquiry.

No comprehensive subsequent-treatment check, Tribunal-remand outcome check, current-law certification or automatic Income-tax Act 2025 crosswalk has been performed.

Both citations appear on the SCR cover. The neutral citation is also printed on the official original cover.

Expressly stated for these appeals in paragraphs 2 and 3.2. The appointed date of 1 April 1995 is not substituted for the assessment year or treated as the allotment date.

One common judgment disposes of four appeals arising from SLP (C) Nos. 2028, 2190, 2188 and 2197 of 2021 respectively. It reviews the Delhi High Court common judgment dated 7 August 2020 in ITA Nos. 935, 822, 853 and 961 of 2005. Individual High Court appeal numbers are not assigned to each appellant here because the Supreme Court narrative lists them collectively.

point: Section 28(iv) text printed in paragraph 12 is the later form expressly covering cash, kind and mixed benefits. The official Department section history identifies substitution by Finance Act 2023 with effect from 1 April 2024. The note does not transplant that wording into AY 1997-98.; source url: <https://www.incometaxindia.gov.in/w/section-28-62>; source scope: Official section page marked 2024 (No. 1), clause (iv) amendment annotation; limited chronology check; point: Inventory conversion in section 28(via), printed in paragraph 12 and invoked by analogy in submissions, is a later measure. CBDT explanatory material gives effect from 1 April 2019 / AY 2019-20. It is not treated as the historical charging basis in these appeals.; source url: <https://www.incometaxindia.gov.in/documents/943497/3984542/englishtax-bulletin-vol-124-129-combined-april-2018-september-2019.pdf/3a23eff6-ddee-426d-fbdf-5848df57899b?t=1762945198471&version=1.0#page=36>; source scope: Official CBDT tax bulletin, physical page 36, explanatory paragraphs 14.1-14.4 only; point: Paragraph 3.2 says sections 391-394 of the Companies Act, 2013 for the 1996 scheme. These section numbers belong to the historical Companies Act, 1956 arrangement/amalgamation framework. The source is preserved; the apparent statutory-year error is not adopted. Paragraph 16.1 separately discusses sections 230-232 of the 2013 Act.; source url: https://www.indiacode.nic.in/bitstream/123456789/12807/1/the_companies_act_1956_no_1_of_1956_date_01.01.1956.pdf#page=170; source scope: Official India Code consolidation, physical pages 170-172, section identities 391 and 394 only; not a full audit of the precise 1996 text

STATUTORY SCOPE

AY 1997-98 dispute and statutory discussion in the judgment; limited checks of identified later amendments and corporate-law source anomalies only, not a full historical or current consolidation audit

No mapping to the Income-tax Act, 2025 and no automatic precedent carryover.

LATER TREATMENT

Source checked 2026-10-04. No later Tribunal decision on remand, review proceeding, subsequent stay, reversal or later judicial treatment has been verified. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported rendition - Physical PDF page 1 / SCR page 517 - PDF pages: 63](#)

SHA-256: fa688c165e999b3b1db92b4f270d6a8e4f3420bb7ca2fa00ddb5c4f043cfd07a

[official signed judgment - PDF pages: 61](#)

SHA-256: cccfd2d7a4c78e3cb82fda07fc81d83fce6ed32153ff15fa322539f7149c2b36

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