

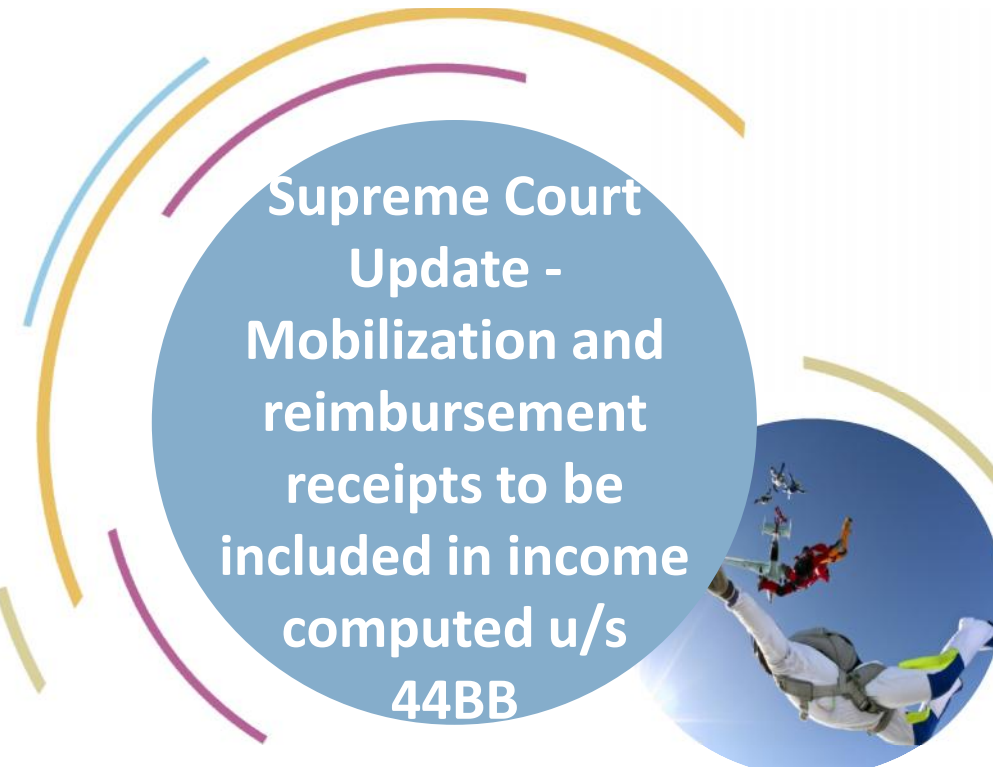
In a recent judgment in a batch of over 50 cases, the Hon'ble Supreme Court has adjudicated the issue of whether mobilization and reimbursement revenues are to be included in the receipts for the purpose of determination of income under section 44BB of the Act.

The taxpayers had contended that mobilisation revenue is received on account of performance of transportation of the rig from an foreign country to India. As such, since the transportation occurs partly in India and partly outside India, only such portion of the revenue should be includible for the purpose of section 44BB as is attributable to the voyage in India. The taxpayers had also argued that the High Court had committed an error in holding that section 5 and section 9 are not applicable in a case where income is determined under section 44BB.

The Hon'ble Supreme Court held that the High Court was not correct in excluding the provisions of section 5 and 9 where income was to be computed u/s 44BB. However, the Court further held that section 5 and 9 could not be read in isolation and would be read in conjunction with section 44BB. Sub-section (2) mentions two kinds of amounts which shall be deemed as profits and gains of the business chargeable to tax in India. Sub-clause (a) thereof relates to amount paid or payable to the assessee or any person on his behalf on account of provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used in the prospecting for, or extraction or production of, mineral oils in India. Thus, all amounts pertaining to the aforesaid activity which are received on account of provisions of services and facilities in connection with the said facility are treated as profits and gains of the business. The Court went on to hold that once income is taxable under section 44BB(2), it becomes taxable under section 5 and section 9 also. The Hon'ble Court has not separately addressed the inclusion of receipts of reimbursement of expenditure and has dismissed the appeals filed by the taxpayers in the entire batch comprising of over 50 cases.

At the same time, the Court has also dismissed an appeal of the tax authorities wherein receipts on account of tools lost in hole were sought to be included in the receipts for the purpose of section 44BB. The Hon'ble Court held that the receipts in question were not in the nature of receipts contemplated by sub-section (2) of section 44BB and thus were to be excluded from taxation under section 44BB.

[A copy of the ruling is attached with this message for your ready reference.](#)



Supreme Court
Update -
Mobilization and
reimbursement
receipts to be
included in income
computed u/s
44BB

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