



**CA. Sukrati Agrawal**

Member of the Institute

## The End Of An Era: How The Income Tax Act 2025 Re-Writes Provisos After 65 Years

For six and a half decades, tax practitioners have been dealing with the Income-tax Act of 1961, which consists of over 1,200 provisos and 900 explanations—a complex construct that has developed out of more than 4,000 amendments based on judicial interpretations and changes in policies. These provisos were not merely drafting add-ons; in many provisions, they became essential to understanding the real scope of the rule.

While the Supreme Court has developed clear rules on how provisos should be interpreted (as in *S. Sundaram Pillai and Dwarka Prasad*), the Act kept getting additional provisos. The Income-tax Act, 2025, applicable from 1 April 2026, marks a structural shift. It does not simply delete the substance of provisos. Instead, it largely carries forward their content in a clearer form - through sub-sections, clauses, tables and schedules, thus shortening Section 10 from 30,000 words to 13,500 words (a reduction of 55%). The change is therefore best understood as a drafting and readability reform, rather than a wholesale policy reset. Its real significance lies in making the law easier to follow: conditions are placed closer to the main rule, exceptions are more visible, and provisions that previously required cross-reading are now presented in a more direct manner.

### Introduction: Why Should A Tax Professional Care About Provisos Disappearing?

For many years, tax professionals have learnt to read an income-tax provision not from top to bottom, but from the *last proviso upwards*. What began as a legislative tool to carve out exceptions gradually became the backbone—and the burden—of the Income-tax Act, 1961. After 65 years, the Income Tax Act 1961 has accumulated over 1,200 provisos and 900+ explanations—an endless tax law that transformed a modern statute into an interpretative minefield. On April 1, 2026, this era will end.

The Income Tax Act 2025, which has been enacted by Parliament to replace

the 1961 Act, marks the beginning of a new era in Indian taxation, characterized by the elimination of provisos as a drafting tool and their replacement by sub-sections, clauses, and tabular arrangements. From a technical perspective, this development represents more than just an improvement in the architecture of tax legislation; it represents a profound recognition that accessibility, uniformity, and simplicity are essential, not desirable, attributes of a viable tax system. The question that this article seeks to answer is, at first glance, simple: How did a clear statute become a complex web of interlocking exceptions, and why did Parliament choose to undertake a complete overhaul of the statute's architecture, rather than a series of

piecemeal amendments? This article examines the history of provisos in Indian income tax legislation, the judicial jurisprudence that has developed to control the complexities of provisos, and the legislative approach taken in 2025 to restore simplicity to the statute.

### Understanding The Proviso: What Is A 'Proviso' And Why It Existed

#### A. Legal Definition and Conceptual Foundation

In statutory law, a proviso is referred to as a clause or a condition that qualifies, limits, or makes an exception to the main provision or the enacting clause. It serves a particular grammatical and legal purpose. It marks the limits of what would otherwise fall

within the scope of a provision. Unlike an explanation—which merely provides clarification for the meaning of words or phrases in a provision—a proviso creates a substantive deviation or qualification.

Consider the difference through example:

- Enacting Clause (Main provision): “No deduction shall be allowed for any sum payable.”
- Proviso: “Provided that if such sum is paid before the due date for filing the return, a deduction may be allowed.”
- Explanation: “For the purposes of this section, ‘sum payable’ means any liability arising under law.”

The enacting clause states a rule, the proviso provides a carve-out to the rule, and the explanation defines terms without providing an exception and does not change the main rule.

## B. The Doctrine of Proviso: Foundational Principles

Over the last six decades, the Indian judiciary has evolved a full-fledged set of principles for the interpretation of provisos. This has happened not in the realm of jurisprudential theory but due to the necessity that arose out of the full-fledged complexity of provisos.

The most important principle is that a proviso must be read in relation to the main provision. It is not an independent source of law unless the language and context clearly show that the legislature intended it to operate more widely.

The Supreme Court has held in its landmark judgments, such as *S. Sundaram Pillai v. V.R. Pattabiraman* (1985) 1 SCC 591 [Constitution Bench], *State of Rajasthan v. Leela Jain* (AIR 1965 SC 1296), and *Dwarka Prasad v. Dwarka Das Saraf* (1976) 1 SCC

1282: “A proviso must be read in relation to the main provision to which it is subordinate.”

In the landmark case of *S. Sundaram Pillai v. V.R. Pattabiraman* (1985) 1 SCC 591, a Three-Judge Bench of the Supreme Court of India set out practical rules for reading provisos. They made a detailed analysis of the principles of proviso interpretation. Through the citation of authorities from treatises on interpretation, English and Indian decisions, and constitutional cases, the Court has formulated a panoramic framework on provisos.

The following are the extracts from paragraphs 27-44 of the decision, which summarize the cumulative judicial wisdom on provisos developed over the years:

First the court explained the difference between a proviso and explanation.

*“The well established rule of interpretation of a proviso is that a proviso may have three separate functions. Normally, a proviso is meant to be an exception to something within the main enactment or to qualify something enacted therein which but for the proviso would be within the purview of the enactment. In other words, a proviso cannot be torn apart from the main enactment nor can it be used to nullify or set at naught the real object of the main enactment.”*

The Court referred to *Odgers* (Construction of Deeds and Statutes (5th Edn.)) that describes proviso as a drafting device that qualifies the main clause by taking certain cases out of it.

Apex Court explained that usually, a proviso narrows the main rule. But sometimes the same idea is written into the body of section itself, so it reads like substantive provision rather than an afterthought.

The Supreme Court has repeated these themes in several cases.

In *State of Rajasthan v. Leela Jain* (1965) 1 SCR 276, AIR 1965 SC 1296, (1966) 1 SCJ 37 the following observations were made:

*‘So far as a general principle of construction of a proviso is concerned, it has been broadly stated that the function of a proviso is to limit the main part of the section and carve out something which but for the proviso would have been within the operative part.’*

In the case of *STO, Circle-I, Sales Tax Officer, Circle-I, Jabalpur v. Hanuman Prasad* . (1967) 1 SCR 831, AIR 1967 SC 565, (1967) 19 STC 87, the Court made following point:

*‘It is well-recognised that a proviso is added to a principal clause primarily with the object of taking out of the scope of that principal clause what is included in it and what the legislature desires should be excluded.’*

In *Dwarka Prasad v. Dwarka Das Saraf* . (1976) 1 SCC 128, (1976) 1 SCR 277, AIR 1975 SC 1758 Krishna Iyer, J. speaking for the Court stressed on the following approach:

*‘There is some validity in this submission but if, on a fair construction, the principal provision is clean a proviso cannot expand or limit it. Sometimes a proviso is engrafted by an apprehensive draftsman to remove possible doubts, to make matters plain, to light up ambiguous edges. Here, such is the case.... If the rule of construction is that prima facie a proviso should be limited in its operation to the subject-matter of the enacting clause, the stand we have taken is sound. To expand the enacting clause, inflated by the proviso, sins against the fundamental rule of construction that a proviso must be considered in relation to the principal matter to which it stands as a proviso. A proviso ordinarily is but a proviso, although the golden rule is to read the whole section, inclusive of the proviso, in such manner that they mutually throw light on each other and result in a harmonious construction.’*

The Court in the end summed up the legal position by establishing following four broad ways in which provisos may operate are often discussed:

- (1) *qualifying or excepting certain provisions from the main enactment:*
- (2) *it may entirely change the very concept of the intendment of the enactment by insisting on certain mandatory conditions to be fulfilled in order to make the enactment workable:*
- (3) *it may be so embedded in the Act itself as to become an integral part of the enactment and thus acquire the tenor and colour of the substantive enactment itself; and*
- (4) *it may be used merely to act as an optional addenda to the enactment with the sole object of explaining the real intendment of the statutory provision."*

As stated in Dwarka Prasad, it sins against the fundamental rule of construction to read a proviso as if it were independent of the main enactment. A proviso cannot exist in isolation; it derives meaning and scope from the enacting clause. As the Court stated in landmark judgments, a proviso cannot be broader than the main provision, nor can it create rights foreign to the principal provision.

A second principle emerged from necessity: the presumption of necessity. Since the natural presumption is that but for the proviso, the main provision would have included the subject matter of the proviso, the enacting part must be given such construction as makes the exceptions carved out by the proviso necessary. Interpretations that render a proviso superfluous must be avoided.

Third, courts developed the principle of scope limitation: a proviso only embraces the field covered by the main provision. It carves out an exception to that specific provision and to no other.

These principles would have been unnecessary if provisos had been kept to a minimum. The forced expression of such complex principles by the courts is proof that provisos had reached the point of threatening the intelligibility of statutes.

### C. Provisos in Indian Income Tax Law: Historical Background

The Income Tax Act of 1961 replaced the Income Tax Act of 1922 with the objective of creating a modern body of taxation code. This act introduced a five-heads system of classifying income. In its early years, provisos were used sparingly and purposefully to address genuine exceptions, such as asset-specific depreciation, eligibility conditions for exemptions, and limits on deductions. While not flawless, the Act initially reflected a clear and structured legislative design, and the complexity that followed arose from the natural pressures of a long-standing statute rather than flawed drafting.

## The Accumulation Narrative: How A Tax Code Evolved Into Complicated Framework

### A. Phase I (1961-1975): Starting Point

The first fifteen years of operation of the 1961 Act represent a period of respective solidity. Although there were amendments, these were generally limited in scope. The judicial application of the provisions involved a range of factual scenarios, with little development of deep-seated interpretative ambiguity. The statute was sufficiently easy to work with.

### B. Phase II (1975-1990): Judicial Decisions as the runway of Accumulation

The second phase is marked by the appearance of a pattern that would influence the next fifty

years: judicial interpretations of provisions in ways that were not foreseen by Parliament, followed by legislative provisos intended to cure or clarify judicial interpretations.

A paradigmatic example is Section 43B. This section was inserted w.e.f. 01 April 1984. To address the hardship created by a literal reading, the first proviso was inserted by the Finance Act, 1987. The Apex Court later explained the proviso's clarificatory/remedial nature in *Allied Motors Case* (1997) 224 ITR 677. That decision belongs chronologically to a later period, but it is useful because it explains why the 1987 proviso was inserted and how courts understood its purpose.

Section 43B was introduced into the statute with effect from April 1, 1984, as follows: "No deduction shall be allowed for any sum payable unless that sum has been paid during the relevant previous year." However, when courts applied this provision literally, it created severe unintended hardships. An assessee owing sales tax for the last quarter of the financial year, payable within 30 days of quarter-end, could not deduct that liability in that year—because it hadn't been paid during the previous year. The liability would be paid in the next year, but





by then the income against which it could be deducted had moved to a different assessment year.

The increase in the number of provisos led to divergent interpretations. Different High Courts, based on the application of Section 43B to similar sets of facts, made different determinations. The Kerala High Court, in *CIT v. Kerala Solvent Extractions*, 306 ITR 54, took a narrow view, while the Calcutta High Court, in *Paharpur Cooling Towers Ltd v. CIT*, 244 CTR 502, the Punjab & Haryana High Court, in *CIT v. Modipon Ltd* (No. 2), 334 ITR 106, and the Delhi High Court, in *CIT v. Raj and San Deeps Ltd*, 293 ITR 12, took up different stands on the applicability and retrospective effect of the section. While some courts were of the view that the expression “sum payable” in Section 43B was restricted to the amount payable in the same accounting year, others took a wider view. The Supreme Court intervened in the matter in *Allied Motors (P) Ltd. v. CIT* (1997), noting that without the clarificatory proviso, Section 43B had become unduly wide, bringing within its scope payments which Parliament had not intended to prohibit from the category of permissible deductions.

Parliament’s response was to insert the first proviso to Section 43B in the Finance Act of 1987:

*“Provided that if the sum is paid on or before the due date for furnishing the return of income under Section 139(1), the deduction shall be allowed.”*

This single proviso, remedying an obvious omission in the main section, was treated as retrospective by the Supreme Court because it supplied “an obvious omission” that made the original provision “unworkable or unjust in a specific situation.”

The story does not end at this point. As the interpretive inquiries continued, the Finance Act of 1989 introduced Explanation 2 to Section 43B, with the objective of explaining the expression “any sum payable.” Thus, one provision developed over a sequence of additions: main clause → first proviso → explanation. While each addition was justified in its own right, together they created a provision that requires cross-textual analysis to be fully understood.

This trend was seen throughout the Act. Section 10 (Incomes not included in total income) of the Income Tax Act of 1961, which aimed to list exempt incomes, had accrued provisos due to the judiciary interpretations of the exemption clauses, or as a result of new exemptions by Parliament with certain time limits and qualifications.

#### C. Phase 3 (1990-2010): Economic Liberalization and the Proliferation

The economic liberalization process triggered a speedy widening of provisos, as new exemptions and deductions were brought in under tangled conditions. The exemptions under Section 10 relating to Special Economic Zones (SEZs), housing, education, dividends, insurance, and research were accompanied

by eligibility conditions. In 2010, Section 10 itself contained 224 elements, consisting of 90 explanations and 134 provisos.

Deductions (Sections 80C to 80U) and Depreciation (Section 32) also had accumulated provisos regarding investment ceilings, categories of assets, and contingent circumstances.

#### D. Phase 4 (2010-2025): Escalating Complexity and Structural Fatigue

In the 2010s, the Income Tax Act of 1961 had seen more than 4,000 amendments in 65 Finance Acts, turning a relatively clean piece of legislation into a historical document that is full of redundant provisos for expired assessment years, transitional provisions, and superseded depreciation regimes. Parliament recognized that removal would pose a risk to contingent liabilities and therefore preferred accumulation over replacement. In the lead-up to the 2025 Bill, the Comprehensive Review undertaken by the CBDT, in addition to stakeholder consultations, found that step by step changes were insufficient and that a broad constructional makeover was required.

### Reasoning of Legislative Action by Parliament in 2025

#### A. Accessibility and Compliance Crisis

The 1961 Act was well stocked with over 1,200 provisos and 900 explanations, which posed a challenge that only specialists could overcome. The challenge was more pronounced for small and medium-sized enterprises compared to corporations that maintained tax teams. The provisos were inconsistent and posed a challenge that contributed to non-compliance.

## B. Litigation and Datedness

The complex proviso regime resulted in conflicting decisions of the High Court and required frequent interventions of the Supreme Court. The provisos relating to lapsed assessment years and transitional provisions created a non-functional accumulation in the statute, making it more of a historical document than a living law.

## C. Modernistic layout

The modern global taxation system uses sub-sections, tables, and themes instead of provisos. India, through structural redesign, adopted this global best practice to bring about modernization.

## Elimination of Provisos and Commencement of Clarity

The Income Tax Act 2025 makes a comprehensive revamp of the regime by removing over 1200 provisos and reducing them to sub-sections or clauses. The method centre on transformation and remodelling rather than elimination.

Again, while rewriting the Income Tax Act 1961, law makers have used reformation techniques wherein

provisos has been rebuilt to sub-section. To illustrate, where the former Section 43B had an anatomy of (Main clause) + (Proviso 1) + (Explanation 2), the new Income Tax Act sets out the entire provision as a single provision with sub-clauses. All the conditions, exceptions, and qualifications have been assembled at one place.

Likewise, Section 32 (Depreciation) involved navigating through a series of provisos for different classes of assets. The new Act provides a complete depreciation table that lists the class of assets, rate of depreciation, conditions, and exceptions in one visual representation. Accordingly, complicated scenarios have been presented as Tables.

To explain further, section 11 was the hub of 16 provisos. Now, provisos have been introduced as sub-part or sub-clauses. Conceptual presentation replaces arbitrarily arrangement. This improves interpretability in a following way: (i) fewer cross-references; (ii) step-by-step eligibility tests sit together; (iii) tables make rate/conditions visible at a glance; and (iv) the scope of the exception is clearer because it is written as part of the same rule.

Various doctrines like Clubbing of income, which were previously narrated via provisos, are now represented as separate formulas setting out conditions and scenarios.

## Conclusion

### Closing a 65-Year Chapter, Opening a New Era

The Income Tax Act 1961 started clean but accumulated 4,000+ amendments, 1,200+ provisos, and 900+ explanations over 65 years. Courts pronounced elaborate proviso jurisprudence, but this could not resolve the anatomy complexity. Parliament eliminated provisos by converting them to sub-sections, tables, and schedules—no policy change, just a clearer blueprint. The

redesign closes a problematic era, opening one of accessible tax law.

## References

- <https://www.casemine.com/judgement/in/5609ac1ee4b014971140e13c>
- <https://indiankanoon.org/doc/68571/>
- <https://www.casemine.com/commentary/in/state-of-rajasthan-v-leela-jain:-affirming-state-revisional-jurisdiction-over-municipal-orders/view#:~:text=The%20case%20of%20State%20of,from%20the%20approved%20municipal%20plans.>
- [itatonline.org/digest/allied-motors-p-ltd-v-cit-1997-224-itr-677-139-ctr-364-91-taxman-205-sc/](https://itatonline.org/digest/allied-motors-p-ltd-v-cit-1997-224-itr-677-139-ctr-364-91-taxman-205-sc/)
- <https://bcajonline.org/journal/deductibility-of-advance-payments-section-43b/>
- [incometaxindia.gov.in/Documents/income-tax-bill-2025/faqs-income-tax-bill.pdf](https://incometaxindia.gov.in/Documents/income-tax-bill-2025/faqs-income-tax-bill.pdf)
- [incometaxindia.gov.in/Documents/income-tax-act-1961-as-amended-by-finance-act-2025.pdf](https://incometaxindia.gov.in/Documents/income-tax-act-1961-as-amended-by-finance-act-2025.pdf)
- [incometaxindia.gov.in/Documents/Budget/budget-2025/faqs-budget-2025.pdf](https://incometaxindia.gov.in/Documents/Budget/budget-2025/faqs-budget-2025.pdf)
- [prsindia.org/files/bills\\_acts/bills\\_parliament/2025/The\\_Income-tax\\_Bill,\\_2025.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2025/The_Income-tax_Bill,_2025.pdf)
- [prsindia.org/billtrack/the-income-tax-bill-2025](https://prsindia.org/billtrack/the-income-tax-bill-2025)



Author may be reached at  
casukagrawal2014@gmail.com  
and eboard@icai.in