



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

257

RSA No.4768 of 2012 (O&M)

Reserved on:15.09.2025

Pronounced on:01.10.2025

Punjab State Warehousing Corporation

... Appellant

Versus

M/s Hanuman Industries

...Respondent

CORAM : HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Ms. Deepali Puri, Advocate,
for the appellant.

Mr. N.K. Bansal, Advocate,
for the respondent.

AMARINDER SINGH GREWAL, J.

C.M. No.13273-C of 2012

Application is allowed as prayed for.

C.M. No.13274-C of 2012

Prayer in the present application is for condoning the delay of 207 days in re-filing of the appeal and the same is accompanied by an affidavit.

For the reasons stated in the application, the same is allowed and delay of 207 days in re-filing of the appeal is condoned.

RSA No.4768 of 2012 (O&M)

1. The present regular second appeal has been filed by the appellant-plaintiff/Corporation challenging the judgment and decree dated 29.10.2011 passed by the learned 1st Appellate Court, whereby the appeals preferred by defendant-firm as well as the plaintiff/Corporation were dismissed while upholding the judgment and decree dated 23.01.2009 of the learned trial Court. Vide judgment and decree dated 23.01.2009 passed by the learned trial Court,



the suit instituted by the appellant-plaintiff for recovery of damages, amounting to ₹10,84,568.32/- along with interest, was partly decreed. The learned trial Court awarded a sum of ₹2,71,663.50/- with interest at the rate of 12% per annum from 20.02.2002 till the date of the judgment, and further granted future interest @ 6% per annum to the appellant-plaintiff. It is the plaintiff-Corporation, who is before this Court in the instant appeal; whereas the defendant chose not to prefer any appeal.

2. For the sake of convenience, parties shall be referred to in terms of their status before the learned trial Court.

3. In brief, the facts are that the plaintiff-Punjab State Warehousing Corporation (PSWC) through its District Manager, filed the present suit for recovery of ₹10,84,568.32 along with interest. The case of the plaintiff is that the Food Corporation of India (FCI) declared 21,367 bags of paddy crop for the year 1997-98 stored at Patran Depot as damaged and authorized the plaintiff to dispose of the same through public auction. An auction notice was published in *The Tribune* on 07.02.2002, fixing 20.02.2002 as date for the auction on specified terms and conditions. The defendant firm participated after depositing ₹10,000/- as participation fee and was declared the highest bidder at ₹301/- per quintal. However, the defendant failed to deposit one-fourth of the auction amount, i.e., ₹10,18,019.62, on the spot as required, leading to cancellation of the bid and forfeiture of the security. The defendant-firm was subsequently informed vide notice dated 04.03.2002 that the stocks would be resold at its risk and cost. A re-auction was conducted on 25.09.2002, yielding a highest bid of ₹273.69 per quintal, resulting in a loss of ₹2,71,663.50 to the plaintiff-Corporation. Additionally, the plaintiff-Corporation claimed ₹3,20,416.92 as interest @18% p.a. on the bid amount, ₹4,63,663.90 as storage charges, and



₹28,824/- @ 10 paise per bag per day for 21367 bags of paddy for 217 days towards advertisement expenses, totaling ₹10,84,568.32. Hence, the present civil suit.

4. Upon notice, the defendant-firm contested the suit by filing a written statement, raising certain preliminary objections. On merits, the defendant-firm denied liability, asserting that it had attempted to deposit ₹10,00,000/- in cash and draft with the plaintiff-Corporation, but the officials refused to accept the same without any reason.

5. On the basis of the pleadings, the learned trial Court framed seven issues, including one relating to relief. Upon careful appreciation of the oral and documentary evidence, the learned trial Court held that the defendant had failed to deposit the earnest money at the fall of the hammer and therefore, could not be held liable for storage charges. The learned trial Court partly decreed the suit, awarding ₹2,71,663.50 with interest @12% per annum from 20.02.2002 till the date of judgment and decree and 6% per annum thereafter; and the learned 1st Appellate Court upheld the same. Aggrieved by the same, the appellant-plaintiff has filed the present Regular Second Appeal.

6. Learned counsel for the appellant-plaintiff has challenged the concurrent findings of the learned Courts below whereby interest @ 12% per annum instead of 18% per annum has been granted without assigning any reason and rejected the claim for storage charges, which arose due to the defendant's failure to lift the stocks, resulting in re-auction of the stock. In support of his contention with respect to payment of interest, learned counsel for the appellant has referred to Clause d (iv) of the contract Ex.P5, according to which, in the event of failure to complete the payment within the specified time, the plaintiff-Corporation had the option to forfeit the earnest money in full and resell the



stocks at the risk and cost of the original buyer and also to recover the loss sustained by the plaintiff-Corporation along with interest stipulated @18 % per annum. It is further submitted that despite there being an agreed rate of interest to be imposed upon breach of contract by a party to the contract i.e. 18% per annum, both the Courts below have gravely erred in awarding interest @12% per annum on the amount of loss suffered by the plaintiff-Corporation due to failure of the respondent-firm in honouring the terms of the contract. He relied upon the judgment passed by a Division Bench of the Calcutta High Court in ***State Bank of India Vs. B. Gupta (Tea) P. Ltd. and others AIR 1987 Calcutta 64*** to contend that if there is contractual rate of interest, the Court has no discretion in the matter. To similar effect, reliance is also placed on the judgment passed by a Coordinate Bench of this Court in ***Om Parkash Vs. State Bank of India 2011 (5) RCR (Civil) 851***.

7. It is further contended that both the Courts below have also erred in granting future interest on the decretal amount @6% per annum but failed to consider that the liability had arisen out of a commercial transaction and thus, as per proviso of Section 34 CPC, the rate of interest from the date of decree to the date of payment, may exceed six per cent per annum. In this regard, reliance is placed upon the judgment passed by a Division Bench of this Court in ***Jagdish Chander Vs. Punjab National Bank AIR 1997 Punjab and Haryana 98*** to contend that under Section 34 CPC, future interest exceeding six per cent per annum can be granted if liability adjudged has arisen out of commercial transaction.

8. It is also contended that both the Courts below have gravely erred in rejecting the claim of the plaintiff-Corporation with respect to storage charges and



consequently, the findings of the Courts below are perverse and thus, prayed for allowing the appeal.

9. Per contra, learned counsel for the respondent-defendant/firm submitted that under Section 34 CPC, the Court has discretion to award interest and if the Court finds that the interest, though agreed as per contractual terms, is excessive and unfair, it can reduce the same. Furthermore, the reasoning of both the Courts below for not granting the storage charges is based on correct appreciation of fact and law and thus, does not require any interference and prayed for dismissal of the appeal.

10. I have heard the learned counsel for the parties and have perused the paper book with their able assistance as well as the case laws cited.

11. This Court while issuing notice of motion on 18.09.2015 had framed the following substantial question upon which the appeal would be heard:-

“Whether the Courts below were in error in failing to see that the claim for damages, allowed for an interest stipulated between the parties at 18% per annum and storage charges under Clause d(iv) of the auction terms and conditions and the Courts below did not have a power to modify the terms which was a commercial contract between the parties?”

12. Section 34 of the Civil Procedure Code deals with interest and the same is reproduced as under:-

“34. Interest.

(1) Where and in so far as a decree is for the payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit,¹ [with further interest at such rate not exceeding six per cent. per annum as the Court deems reasonable on such principal sum], from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit :

Provided that where the liability in relation to the sum so adjudged had arisen out of a commercial transaction, the rate of



such further interest may exceed six per cent. per annum, but shall not exceed the contractual rate of interest or where there is no contractual rate, the rate at which moneys are lent or advanced by nationalised banks in relation to commercial transactions.

Explanation I.--In this Sub-section, "nationalised bank" means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).

Explanation II.-- For the purposes of this section, a transaction is a commercial transaction, if it is connected with the industry, trade or business of the party incurring the liability.

(2) Where such a decree is silent with respect to the payment of further interest³ [on such principal sum] from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.

13. A bare perusal of Section 34 of the CPC reveals that primarily there are three divisions of interest which aforesaid Section deals with viz; (i) interest accrued due prior to the institution of the suit on the principal sum adjudged; (ii) additional interest on the principal sum adjudged, from the date of the suit to the date of the decree as such rate as the Court deems reasonable; and (iii) further interest on the principal sum adjudged from the date of the decree to the date of the payment or to such earlier date as the Court thinks fit, at a rate not exceeding six per cent per annum. These three kind of interests in common parlance are called, much less, widely understood as pre-suit interest, interest *pendente lite* and interest post-decree or future interest. Pre-suit interest is a matter of substantive law and not procedural law, thus, not governed by the provisions of Section 34 CPC, meaning thereby, pre-suit interest arises from an obligation established by the original contract, statute, or mercantile usage between the parties.

14. At this stage, it is apt to reproduce Clause d (iv) of the Auction Notice, Ex.P5, which reads as under:



“iv) In the event of failure to complete the payment within the specified time and to present the demand draft or deposit at call receipt within the aforesaid period of ten days, the PSWC shall have the option to forfeit the Earnest Money in full and resale the stocks at the risk and cost of the original buyer and also to recover the loss sustained by the PSWC as a result of such failure, or to extend the period by seven days for making the payments, provided an interest of 18% per annum and storage charges at the rate of 10 paise per bag or part thereof per day, subject to a minimum of 40 paise per bag or part thereof, are paid by the party. Any saving or profit on resale as aforesaid shall be exclusively to the account of the Punjab State Warehousing Corporation.”

15. A perusal of the aforesaid clause makes it apparent that in the event of failure to complete the payment within the specified time, the appellant-plaintiff will be entitled to resale the stocks at the risk and cost of the original buyer and recover the loss sustained by it, subject to payment of interest @18% per annum. It is also worthwhile to note here that the defendant-firm had not challenged the terms and conditions of the auction notice at any stage.

16. The Hon’ble Supreme Court in the judgment passed in ***Vithal Dass vs. Rup Chand AIR 1967 SC 188*** has held as under:-

“4. It is well established that interest may be awarded for the period prior to the date of the institution of the suit if there is an agreement for the payment of interest at fixed rate or if interest is payable by the usage of trade having the force of law, or under the provisions of any substantive law as for instance Section 80 of Negotiable Instruments Act or Section 23 of the Trusts Act.....”

17. The Constitution Bench of the Hon’ble Supreme Court in ***Central Bank of India Vs. Ravindra (2002) 1 SCC 367*** has held as under:-



"39. *Mulla on the Code of Civil Procedure (1995 Edition)* sets out three divisions of interest as dealt in Section 34 of CPC. The division is according to the period for which interest is allowed by the Court, namely - (1) interest accrued due prior to the institution of the suit on the principal sum adjudged; (2) additional interest on the principal sum adjudged from the date of the suit to the date of the decree, at such rate as the Court deems reasonable; (3) further interest on the principal sum adjudged, from the date of the decree to the date of the payment or to such earlier date as the Court thinks fit, at the rate not exceeding 6 per cent per annum. Popularly the three interests are called pre-suit interest, interest pendente lite and interest post decree or future interest. Interest for the period anterior to institution of suit is not a matter of procedure; interest pendente lite is not a matter of substantive law.....Pre-suit interest can be sub-divided into two sub-heads; (i) where there is a stipulation for the payment of interest at a fixed rate; and (ii) where there is no such stipulation. If there is a stipulation for the rate of interest, the Court must allow that rate up to the date of the suit subject to three exceptions: (i) any provision of law applicable to money lending transactions, or usury laws or any other debt law governing the parties and having an overriding effect on any stipulation for payment of interest voluntarily entered into between the parties; (ii) if the rate is penal, the Court must award at such rate as it deems reasonable; and (iii) if the rate is not penal, the Court may reduce if the interest is excessive and the transaction was substantially unfair. If there is no express stipulation for payment of interest, the plaintiff is not entitled to interest except on proof of mercantile usage, statutory right of interest or an implied agreement....

Still further, it has been held that once a suit is filed in the Court, so far as Section 34 of the Code is concerned, the relationship of the parties ceases to be governed by contract between the parties



and comes to be governed by Section 34 of the Code. It was held to the following effect-

"46.....True it is that once a suit is filed in the Court, so far as Section 34 of the Civil Procedure Code is concerned, the relationship of parties ceases to be governed by contract between the parties and comes to be governed by Section 34 of the Civil Procedure Code...."

The Hon'ble Supreme Court concluded in one of the principles laid down in the aforesaid judgment to the following effect:-

"(8) Award of interest pendente lite and post-decree is discretionary with the Court as it is essentially governed by Section 34 of the CPC dehors the contract between the parties. In a given case if the Court finds that in the principal sum adjudged on the date of the suit the component of interest is disproportionate with the component of the principal sum actually advanced the court may exercise its discretion in awarding interest pendente lite and post-decree interest at a lower rate or may even decline awarding such interest. The discretion shall be exercised fairly, judiciously and for reasons and not in an arbitrary or fanciful manner."

18. A Division Bench of the Calcutta High Court in the judgment passed in ***Vijaya Bank and etc. Vs. Art. Trend Export and etc. AIR 1992 Calcutta 12*** has held as under:-

"12. This disposes of the consideration of the general principles involved regarding the aforesaid questions. Without any intention of summarising the same, we may indicate some of the salient features of our consideration.

12.1. Interest prior to the institution of the suit

If there is any agreement to that effect such interest is to be governed by such agreement. Where there is no such agreement, it is to be



governed according to the statutory provision, if any, governing the same. Both the Interest Acts of 1839 and 1978 provide for the award of interest, in cases referred to therein, up to the date of the institution of the proceedings. Interest Act, 1978 applies in respect of proceedings commenced after the said Act came into force; whereas Interest Act, 1839 applies for the period prior thereto. If there is any agreed rate of interest, that is a part of the claim of the plaintiff. The plaintiff is entitled to the same under the substantive law. The question of exercise of any discretion by the Court cannot and does not arise in such a case. The Court has no power to deviate from the agreement by totally disallowing interest or allowing interest at a lower rate or at a rate other than the agreed rate.

12.2. Interim Interest

- a) The provisions of 1855 Act would not apply in respect of interim interest. (Ref.: Para 9.35)*
- (b) Section 34 of C.P.C. would apply. In the present appeal we are not dealing with mortgage suits. In the case of a mortgage suit Order 34 of the Code would apply and not Section 34. (Ref.: Para 9.35)*
- c) It is entirely a matter of discretion of the Court. Such discretion is not and cannot be limited to the question of rate or amount of interest only; but it applies also to the question as to whether any interest is at all to be granted. (Para 9.36)*
- d) Such discretion is to be exercised judicially upon consideration of the facts and circumstances of each case. This would include conduct of the parties both before and after the suit. The discretion must be exercised on sound principles. It must be reasonable and fair. No universal rule can be laid down governing all cases. The factors taken into consideration in various cases are merely illustrative. (Para 9.37)*
- e) The claimant is not entitled to such interest at such agreed rate as a matter of right and the Court is not bound to grant such interest at such rate, even if it is mentioned in the agreement that interest is to be paid at the agreed rate till realisation. It still remains a matter of*



discretion of the Court. However the Court is not entitled to ignore the same totally. Not only that the Court is entitled to take into consideration the agreement of the parties in this respect, but it must take the same into consideration. The Court should generally adhere to the interest at the contract rate unless it is not considered to be equitable to do so.

This question assumes special importance where the claimant is a Bank which is bound to comply with any direction given to it by the Reserve Bank of India under Section 21 of the Banking Regulation Act, 1947, as to, inter alia, the rate of interest and other terms and conditions on which advance or other financial accommodations may be made or guarantee may be given. (Ref. Paras 9.38 and 9.39)

f) When the Court grants interest at the agreed rate or when no specific prayer is made for grant of such interest at the agreed rate or any particular rate or when the grant of such interest at a rate lower than the agreed rate is not objected to, it is not necessary for the Court to give reasons. However, when a specific claim is made for such interest at the agreed rate or at a particular rate, which is rejected by the Court or if the Court allows interest at a rate lower than the agreed rate, then and in that case, in our opinion, the Court should give reasons. Otherwise such award of interest at a lower rate may be challenged as arbitrary.

While considering the question of grant of such interest, as already said, it is the duty of the Court to take relevant factors into consideration as may be placed before the Court by the parties particularly when such interest is sought to be awarded at a lower rate. This would include the conduct of the parties, both the plaintiff and the defendant, both before and after the suit, the nature of the securities etc. Accordingly when such a discretion is exercised by granting interest at a lower rate, it should not be arbitrary but must be judicial one. Unless reasons are given, it is difficult to ascertain whether discretion has been exercised judicially or arbitrarily. The Court's power to grant interest at a lower rate is not in question. The



question is whether the Court has acted arbitrarily or judicially in the matter of granting lesser rate of interest. (Ref. Para 9.40)

12.3. Interest on Judgment

In our opinion, the question of interest on judgment stands on the same footing as that regarding the interim interest. We have given our reasons already in respect of interim interest and the principles regarding the same should apply equally in respect of interest on judgment also except to the extent indicated. (Ref. Para 10.5).

However, there is one difference regarding the interest on judgment which is contained in Section 34 itself. In view of the proviso in Section 34(1) and "Explanations" therein, so far as interest on judgment is concerned, ordinarily it should not exceed 6% per annum. Ordinarily, this should be maximum limit. However, this maximum limit of 6% per annum is not applicable in the case of a "commercial transaction" within the meaning of Explanation II. In such a case it may exceed 6% per annum but must not exceed contractual rate. Where there is no contractual rate it must not exceed the rate at which the moneys are lent and advanced by nationalised Bank in relation to commercial transactions. In view of the proviso, this is the maximum limit in respect of a commercial transaction. This is an indication that in the case of a commercial transaction, the agreed rate, and where there is no agreed rate, the rate charged by nationalised Banks are to be taken into consideration. A fortiori, when it is a suit filed by a nationalised bank wherein the liability of the defendant arises out of a commercial transaction, the agreed rate is an important factor and it cannot be ignored. Further, in view of the above, in our opinion, such further interest should ordinarily be granted at such agreed rate unless there are reasons for not granting such interest at such rate. When there are cogent reasons for not allowing such interest at such rate, the Court may grant such interest at a lower rate but it must record its reasons. (Ref. Para 10.6) ”



19. In view of principles enunciated in the above precedents, it is crystal clear that Section 34 does not deal with interest prior to the date of the suit, as the interest accrued due prior to the institution of the suit on the principal sum adjudged is not a matter of procedure but of substantial law, meaning thereby, arises from an obligation established by the original contract, statute, or mercantile usage between the parties. In the *lis* in hand, as per clause d(iv) of the auction notice as reproduced above, the rate of interest in case of default is agreed between the parties @18% per annum and therefore, the appellant-plaintiff is entitled for recovery of Rs.2,71,663.50 along with interest @18% per annum w.e.f. 20.02.2002 till the date of filing of the suit i.e. 27.10.2003.

20. However, once the suit is filed, award of interest *pendente lite* and post-decree is discretionary with the Court and is governed by Section 34 of the Code *de hors* the contract between the parties. Therefore, this Court is unable to subscribe the view that both the Courts below have erred in granting interest to the extent of interest *pendente lite* @12% per annum. Resultantly, the appellant-plaintiff will be entitled to interest @12% per annum from 28.10.2003 to 23.01.2009.

21. Recently, the Hon'ble Supreme Court while putting at rest a dispute related back to 50 years, in the judgment of ***I.K. Merchants Pvt. Ltd. & Ors Vs. The State of Rajasthan and others*** passed in Civil Appeal Nos.4560-4563 of 2025 (arising out of SLP(C) Nos.11779-11782 of 2022) has held as under:-

“13.1. The above provision empowers the court to grant interest at three different stages of a money decree viz., (i) the court may award interest on the principal sum claimed at a rate it deems reasonable, for the period before the suit was filed. Such interest is generally governed by agreements between the parties; (ii) The court may award interest on the principal amount from the date of filing the



suit until the date of the decree, at a reasonable rate. Here, the court has full discretion to determine the interest rate based on fairness, commercial usage and equity; and (iii) the court may grant interest on the total decretal amount (principal + interest before decree) from the date of the decree until payment, at a rate not exceeding 6% per annum unless otherwise specified in contractual agreements or statutory provisions. However, if the claim arises from a commercial transaction, courts may allow interest at a higher rate based on agreements between the parties.

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16. Be it noted, while the discretion to award interest, whether pendente lite or post-decree, is well recognized, its exercise must be guided by equitable considerations. The rate and period of interest cannot be applied mechanically or at an unreasonably high rate without any rationale. Though it is not possible to arrive at the actual value of improvement or the inflation on the fair consideration, if paid at the relevant point of time, it is just and necessary that the rate of interest must be a reparation for the appellant. The Court must ensure that while the claimant is fairly compensated, the award does not become punitive or unduly burdensome on the Judgement Debtor. Therefore, the rate of interest should be determined in a manner that balances both fairness and financial impact, taking into account the “loss of use” principle and economic prudence, in the specific facts of each case.

17. Considering the prolonged pendency of the dispute regarding the valuation of shares, which has only been determined recently, and the substantial share amount involved, and also keeping in mind that this is a commercial transaction, and the entire burden of interest along with principal value falls upon the Government, it is necessary in the present case to award reasonable interest, in order to strike a balance between the parties. Thus, in these peculiar facts and circumstances, we deem it fit, just and appropriate to award simple interest at the rate of 6% per annum from 8th July 1975, on the



enhanced valuation of shares till the date of decree and interest at the rate of 9% per annum from the date of decree till the date of realisation. The interest shall be paid along with the amount due towards the enhanced value of the shares, after adjusting the amount already paid, to the appellants, within a period of two months from today.

22. Now adverting to the post-decree interest, in other words future interest, it is opined that in view of the fact that the issue at hand involved commercial transaction and as per proviso to Section 34 CPC, despite being discretionary, the rate of interest may exceed six per cent but not exceeding the contractual rate of interest. As per the terms of auction notice Ex.P5, the contractual rate of interest is stipulated @18% per annum, however, the discretionary exercise of granting post-decree interest must be guided by equitable considerations and the Hon'ble Supreme Court in the judgment passed in ***I.K. Merchants Pvt. Ltd.***'s case (supra) has cautioned that rate and period of interest ought not to be applied mechanically or at an unreasonably high rate without any rationale. It is to be evaluated on case to case basis and the Court must ensure that while the claimant is fairly compensated, the award does not become punitive or unduly burdensome on the judgement debtor. Therefore, keeping in view the fact that the suit was filed about 22 years back, this Court deems it appropriate to grant future interest i.e. from the date of passing of the decree till its realization @9% per annum.

23. Now coming to the argument raised by learned counsel for the appellant-plaintiff that both the Courts below have erred in declining storage charges @10 paise per bag per day for 21367 bags of paddy for 217 days, this Court finds no error in the said finding rendered by both the Courts below and the same is upheld.



24. In view of the aforesaid facts and circumstances, this Court summarizes as under:-

- (i) The appellant-plaintiff shall be entitled to pre-suit interest @18% per annum instead of 12% per annum, on the principal sum adjudged i.e. Rs.2,71,663.50 w.e.f. 20.02.2002 till the date of filing of the suit i.e. 27.10.2003.
- (ii) The appellant-plaintiff shall be entitled to interest *pendete lite* @12% per annum on the principal sum adjudged i.e. Rs.2,71,663.50 w.e.f. 28.10.2003 to 23.01.2009.
- (iii) The appellant-plaintiff shall be entitled to post-decree interest/future interest @9% per annum instead of 6% per annum from 24.01.2009 on the principal sum adjudged i.e. Rs.2,71,663.50 w.e.f. 24.01.2009 till the date of payment.

25. As an upshot of above, the substantial question of law framed by this Court vide order dated 18.09.2015 is answered in favour of the appellant-plaintiff and against the respondent-defendant in the above manner. Consequently, judgment and decree dated 29.10.2011 passed by the learned 1st Appellate Court is partly set aside and the instant regular second appeal is allowed in above terms. Decree sheet be prepared accordingly.

26. Pending misc. application(s), if any, also stand disposed of.

(AMARINDER SINGH GREWAL)
JUDGE

October 01, 2025

Pankaj*

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes