

Commissioner of Income-tax, Bombay v. Ahmedbhai Umarbhai & Co., Bombay

Civil Appeal No. LXVIII (68) of 1949

[1950] SCR 335 | 1950-05-04

Excess profits tax; territorial accrual and apportionment

Excess Profits Tax Act 1940 sections 2(5), 5 third proviso and 21 | Indian Income-tax Act 1922 section 42(1), (3), as incorporated

Six-judge bench; unanimous result, separate reasons | Harilal Kania C.J. | Saiyid Fazl Ali J. | M. Patanjali Sastri J. | Mehr Chand Mahajan J. | B.K. Mukherjea J. | S.R. Das J.

Scope and outcome limits

Historical Excess Profits Tax Act 1940 decision, not an adjudication exempting the firm from ordinary income-tax. No numerical apportionment percentage is fixed by this report.

01 FACTS OF THE CASE

A Bombay-resident registered firm manufactured and sold groundnut oil through three Bombay mills and a Raichur mill in Hyderabad State. Oil manufactured at Raichur was sold partly there and partly in Bombay. The dispute concerned the manufacturing share of profits from the Bombay sales: the Revenue brought the entire profits into excess profits tax, while the firm invoked the third proviso to section 5 for profits attributable to manufacture in an Indian State. Liability to ordinary income-tax was not disputed. The Bombay High Court accepted the firm's position and the Revenue appealed.

Source: [Primary report: SCR 337-338, 345, 356-358, 373; PDF 3-4, 11, 22-24, 39](#)

02 DISCUSSION BY THE HON'BLE COURT

Manufacture could constitute a part of the business for the third proviso to section 5; it did not have to be a self-contained business containing both manufacture and sale. The opinions distinguished the place where profits were received or realised from the activities to which profits accrued, and supported reasonable allocation to the Raichur manufacturing operations. Section 42(3), incorporated through section 21, supported apportionment. Patanjali Sastri J. concurred on the statutory operation of amended section 42(1) and (3), while reserving the broader question whether profits could be apportioned without statutory authority. His separate reasoning should not be presented as a dissent. Mukherjea J. did not adopt an unqualified rule that profits necessarily accrue wherever their source is situated.

Source: [Primary report: SCR 340-344, 349-356, 360-368, 371-373, 375-390; PDF 6-10, 15-22, 26-34, 37-39, 41-56](#)

03 JUDICIAL DECISION

The Revenue's appeal was dismissed with costs. The part of the profits attributable to manufacturing at Raichur accrued or arose in the Indian State and was exempt from excess profits tax under the third proviso to section 5, notwithstanding sale of the goods in Bombay. The judgment does not prescribe a universal numerical allocation or exempt all Bombay-sale profits.

Source: [Primary report: SCR 344, 356, 373, 390; PDF 10, 22, 39, 56](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee, on exclusion of the manufacturing share from excess profits tax. Ordinary income-tax liability was not the issue decided.

Source: [Primary report: SCR 337, 373, 390; PDF 3, 39, 56](#)

05 AKHB REVIEW POINT

Identify the historical charging statute, territorial conditions and actual manufacturing and selling operations before allocating profits. Distinguish receipt from accrual and document a reasonable allocation supported by the applicable statute. This decision concerns the 1940 excess profits tax regime and the relevant 1922 Act provisions; it is not itself clearance for a present-day income-tax, permanent-establishment or transfer-pricing position.

Source: [Primary report: SCR 349-356, 375-390; PDF 15-22, 41-56](#)

SOURCE & VERIFICATION

[Supreme Court Reports primary scan — public eSCR mirror](#)

All 56 PDF pages read, including all separate opinions. SCR 335-390; the target is the excess profits tax appeal.

[Open cited source rendition](#)

STATUTORY SCOPE

Historical Excess Profits Tax Act 1940 decision, not an adjudication exempting the firm from ordinary income-tax.

LATER TREATMENT

Source checked 2026-10-18. Subsequent treatment and current-law applicability have not been comprehensively checked.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from an identified primary report. Independent human review is not represented.

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