

Commissioner of Income-tax, Bombay v Finlay Mills Ltd.

Civil Appeal No. 103 of 1950

[1952] SCR 11 | 1951-10-01

Whether first registration of existing trade marks created a capital asset or an enduring capital advantage, making the registration expense capital rather than an allowable business deduction.

Indian Income-tax Act, 1922, section 10(2)(xv) | Trade Marks Act, 1940, sections 2(1), 14, 20, 21, 28 and 29

3-judge bench | Harilal Kania CJI | Mehr Chand Mahajan J. | Chandrasekhara Aiyar J.

Scope and outcome limits

Identify the actual legal and commercial benefit purchased, distinguishing protection of an existing asset from acquisition or improvement of capital. The ruling concerns registration of existing marks under the Trade Marks Act, 1940; it does not decide all expenditure on acquiring or developing intellectual property, or current statutory allowances.

01 FACTS OF THE CASE

A textile manufacturer claimed the cost of first registration of its trade marks as revenue expenditure under section 10(2)(xv) of the Indian Income-tax Act, 1922. The Tribunal allowed the claim following the Bombay High Court's Century Spinning decision. The High Court answered the reference affirmatively, and the Commissioner appealed.

Source: [Primary report: SCR 12-13](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court examined what registration actually added to the pre-existing trade mark. It supplied prima facie evidence of ownership and made protection against infringement more convenient; cancelling registration would not destroy the underlying common-law right. Separate assignability was an additional incidental facility, not an addition to the mark itself. The expenditure maintained and protected an existing asset rather than acquiring or improving fixed capital. Neither payment once and for all nor the period of an advantage was independently decisive of the capital/revenue distinction.

Source: [Primary report: SCR 14-18](#)

03 JUDICIAL DECISION

The Commissioner's appeal was dismissed with costs. The deduction was upheld, and the Court approved the Bombay High Court's Century Spinning decision.

Source: [Primary report: SCR 18](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee; deduction for registration of existing trade marks upheld.

Source: [Primary report: SCR 18](#)

05 AKHB REVIEW POINT

Identify the actual legal and commercial benefit purchased, distinguishing protection of an existing asset from acquisition or improvement of capital. The ruling concerns registration of existing marks under the Trade Marks Act, 1940; it does not decide all expenditure on acquiring or developing intellectual property, or current statutory allowances.

Source: [Primary report: SCR 14-18](#)

SOURCE & VERIFICATION

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

PDF pages 1-8 / SCR 11-18, from Finlay Mills caption on page 1 to disposition on page 8. Opinion begins SCR 12. First page starts with Sri Lakshmi Silk Mills concluding reasons and disposition; not part of Finlay Mills. Last page begins Bhim Sen captions; not part of Finlay Mills.

[Open cited source rendition](#)

STATUTORY SCOPE

Historical Indian Income-tax Act, 1922 provisions; no present statutory equivalence or current-law clearance is asserted.

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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