

Sohan Pathak and Sons v. Commissioner of Income-tax, U.P.

Civil Appeals Nos. 47-50 of 1952

[1954] SCR 158 | 1953-09-23

Excess Profits Tax Act, 1940: sections 4, 5, 10-A; section 8(1) alternative not decided

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5-judge bench | Patanjali Sastri C.J. | B. K. Mukherjea J. | Vivian Bose J. | Ghulam Hasan J. | Jagannadhadas J.

Historical statutory scope

Historical Excess Profits Tax Act holding; no current-law clearance. Exact subsequent period dates are not comprehensively stated.

01 FACTS OF THE CASE

The family partitioned its brocade business on 16 July 1943, actually distributing assets and liabilities among fourteen coparceners. Two partnerships then carried on the trade. The excess profits tax officer added their profits to the former family business under section 10-A. Source: [Primary report: SCR 158-163](#)

02 DISCUSSION BY THE HON'BLE COURT

The supplementary statement established actual discontinuance and distribution, rather than a mere division into undivided shares. Although evidence supported a principal tax-avoidance purpose, section 10-A presupposed a business to which the charging provisions applied; it could not revive a discontinued business which earned no relevant profits. Sections 4 and 5 did not bring the discontinued family business within the charge for the relevant subsequent periods. Section 10-A therefore could not support the adjustment. The alternative section 8 contention was unnecessary.

Source: [Primary report: SCR 163-166; SCR 164-167](#)

03 JUDICIAL DECISION

The appeals were allowed with costs, with one advocate's fee. The first reference answer was reversed; the High Court judgment otherwise stood.

Source: [Primary report: SCR 167](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee. The appeals were allowed with costs, with one advocate's fee. The first reference answer was reversed; the High Court judgment otherwise stood.

Source: [Primary report: SCR 167](#)

05 AKHB REVIEW POINT

Establish actual discontinuance and asset distribution before invoking this historical ruling. The Court did not reject the avoidance-purpose finding or approve avoidance generally; it decided the reach of the particular charging and adjustment provisions.

Source: [Primary report: SCR 163-167](#)

SOURCE & VERIFICATION

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

Full ten-page asset read; Sardar Indra Singh opening on final reporter page is a separate case.

[Open cited source rendition](#)

STATUTORY SCOPE

Historical statutory text and assessment period only. Present statutory equivalence and later judicial treatment are not cleared.

LATER TREATMENT

Source checked 2026-10-19. 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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