

Sir Kikabhai Premchand v. Commissioner of Income-tax (Central), Bombay

Civil Appeal No. 144 of 1952

[1954] SCR 219 | 1953-10-09

Indian Income-tax Act, 1922: sections 13, 66(1); business income computation

Indian Income-tax Act, 1922: sections 13, 66(1); business income computation

5-judge bench | Patanjali Sastri C.J. | S. R. Das J. | Vivian Bose J. (majority author) | Ghulam Hasan J. | N. H. Bhagwati J. (dissenting)

Majority and dissent

Appeal allowed by a four-to-one majority. Bhagwati J.'s proposed dismissal is the dissent, not the Court's operative order.

Historical statutory scope

Historical 1922 Act decision; no current-law clearance or review of later statutory amendments.

01 FACTS OF THE CASE

A sole proprietor trading in silver and shares consistently valued stock at cost. During 1942 he withdrew stock and settled it on three trusts, crediting the business with its cost. Revenue assessed the difference between cost and market value. Good faith was not disputed.

Source: [Primary report: SCR 220-221, 227-228](#)

02 DISCUSSION BY THE HON'BLE COURT

The four-judge majority treated owner and sole business as the same person and found no receipt or realised business gain in a non-business withdrawal. Bhagwati J., dissenting, would have credited market value when stock left the business, viewing withdrawal and realisation alike for this purpose. The majority held that no income arose from the transfers on these facts. Cost entries cancelled the original stock cost and did not require a fictional profit; the alternative computation question did not arise.

Source: [Primary report: SCR 222-226 \(majority\); 229-235 \(dissent\); SCR 224-227](#)

03 JUDICIAL DECISION

The assessee's appeal was allowed with costs by majority. The dissent's proposed dismissal was not the operative disposition.

Source: [Primary report: SCR 227, 235](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee. The assessee's appeal was allowed with costs by majority. The dissent's proposed dismissal was not the operative disposition.

Source: [Primary report: SCR 227, 235](#)

05 AKHB REVIEW POINT

Keep the historical holding tied to a continuing sole-proprietor business, genuine withdrawal without consideration and the accepted cost method. The majority expressly left dissolution and other entities' cases open; do not extend it automatically to statutory conversion or deemed-income provisions.

Source: [Primary report: SCR 221-226](#)

SOURCE & VERIFICATION

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

All seventeen pages and both opinions fully read. SCR 235 begins a separate religious-endowment case after the final order.

[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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