

The Liquidators of Pursa Limited v. Commissioner of Income-tax, Bihar

Civil Appeal No. 33 of 1953

[1954] SCR 767 | 1954-02-09

Indian Income-tax Act 1922 sections 10(1), 10(2)(vii) second proviso, 66

Indian Income-tax Act 1922 sections 10(1), 10(2)(vii) second proviso, 66

4-judge bench | Mehr Chand Mahajan C.J. | S.R. Das J. (author) | Ghulam Hasan J. | Jagannadhadas J.

Historical statutory scope and outcome limits

The machinery-use requirement concerns the historical second proviso to section 10(2)(vii). Active versus passive use was left open; the separate stores-sale issue was outside this appeal. No current-law clearance.

01 FACTS OF THE CASE

The sugar company sold its factory machinery and plant while winding down, but retained and sold existing sugar stocks. Throughout the accounting period 1 October 1943 to 30 September 1944 the machinery was not used for manufacture or other business. The Revenue added Rs. 13,05,144 as a statutory sale surplus. The High Court upheld that addition; the liquidators appealed. A separate stores-sale issue had been decided for the company and was not appealed by the Revenue.

Source: [Primary report: SCR 769-772; PDF 3-6](#)

02 DISCUSSION BY THE HON'BLE COURT

The second proviso referred to machinery used for the business under section 10. Use during at least part of the accounting year was necessary. Continued sale of old sugar stocks did not establish use of the factory machinery. The Tribunal had misunderstood the statutory requirement and drawn conclusions inconsistent with primary facts, allowing judicial correction despite the ordinary finality of factual findings. The Court did not decide whether passive use could suffice in other circumstances.

Source: [Primary report: SCR 773-778; PDF 7-12](#)

03 JUDICIAL DECISION

Appeal allowed with costs in the Supreme Court and High Court. The first referred question was answered in the negative: the machinery-sale surplus was not taxable under the applicable second proviso.

Source: [Primary report: SCR 778; PDF 12](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee on machinery-sale surplus.

Source: [Primary report: SCR 778; PDF 12](#)

05 AKHB REVIEW POINT

Distinguish realisation of capital assets during winding-up from trading operations, and check the precise statutory use condition and accounting period. Do not treat the ruling as a universal exemption for modern depreciable-asset sales.

Source: [Primary report: SCR 774-778; PDF 8-12](#)

SOURCE & VERIFICATION

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

Complete 12-page report, SCR 767-778. The judgment starts below the unrelated Zamindar of Ettayapuram report on the first page. The archive filename starts 768, but the actual opening citation is SCR 767.

[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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