E. D. Sassoon and Company Ltd. v. Commissioner of Income-tax, Bombay City (with connected appeals)

Civil Appeals Nos. 3, 30 and 31 of 1953

[1955] 1 SCR 313 | 1954-05-14

Indian Income-tax Act 1922 sections 4, 10, 26(2), 66

Indian Income-tax Act 1922 sections 4, 10, 26(2), 66 | Excess Profits Tax Act sections 15, 21 | Transfer of Property Act section 36

3-judge bench | S.R. Das J. | N.H. Bhagwati J. | Jagannadhadas J.

Historical statutory scope and outcome limits

Majority by Das and Bhagwati JJ.; Jagannadhadas J. dissented and would have upheld apportionment. Do not describe this as a simple universal taxpayer win: the assignor won while the transferees lost. The general tax consequence of assigning already-accrued income was unnecessary to decide. Opening and closing pages include adjoining non-tax report fragments. Historical statutory setting; no later-treatment or current-law clearance is claimed.

01 FACTS OF THE CASE

Sassoons assigned managing agencies during 1943. The successor agents received the year's entire commission in 1944. The Tribunal and High Court apportioned that commission by periods of service between transferor and transferees. Sassoons and the Revenue brought connected appeals challenging that allocation.

Source: Primary report: SCR 316–324; PDF 4–12

02 DISCUSSION BY THE HON'BLE COURT

By a two-to-one majority, the relevant annual-remuneration contracts were entire: completion of the stipulated service period was a condition precedent, so no enforceable commission debt accrued to Sassoons for the broken periods. Accrual requires a vested right to receive income; contribution through services alone does not create that right. Later quantification does not generally postpone an already vested accrual, but here the necessary right had not vested before assignment. The transfer conveyed the income-producing agency and its expectancy. Section 26(2) did not create a share that had not accrued; section 36 did not require apportionment against the Revenue and the transfers supplied a contrary arrangement. Jagannadhadas J. dissented: the year's joint successive work produced joint income on completion and the assignment transferred the assignor's future share without removing its tax liability.

Source: Primary report: SCR 331–350, 354–358 (majority), 359–380 (dissent); PDF 19–38, 42–46, 47–68

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03 JUDICIAL DECISION

All three appeals were allowed and the apportionment question answered in the negative. The annual commission was not to be split and taxed to Sassoons for their broken service periods; the transferees were taxable on the income accruing under the assigned agencies. Each party bore its costs in both courts.

Source: Primary report: SCR 359, 380; PDF 47, 68

04 OUTCOME / IN WHOSE FAVOUR

Sassoons as assignor; Revenue in its connected appeals against the transferees.

Source: Primary report: SCR 359, 380; PDF 47, 68

05 AKHB REVIEW POINT

Read the earning and vesting conditions of the contract before assigning income to a period or person. Distinguish transfer of an income source before accrual from assignment of income already accrued. Do not treat work performed, receipt, quantification and legal accrual as interchangeable.

Source: Primary report: SCR 340–350, 356–358; PDF 28–38, 44–46

SOURCE & VERIFICATION

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STATUTORY SCOPE

Historical predecessor legislation only; this is not a decision applying the Income-tax Act, 1961. Verify the applicable statutory text separately.

LATER TREATMENT

Source checked 2026-10-21. 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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