# Commissioner of Income-tax v. McMillan & Co.

Civil Appeal 29 of 1955

[1958] SCR 689 | 1957-10-16

## Historical interpretation: Indian Income-tax Act 1922, sections 13 and 31(3)

Indian Income-tax Act 1922, sections 13 and 31(3) | Indian Income-tax Rules 1922, rule 33

3-judge bench | N. H. Bhagwati | S. K. Das | J. L. Kapur

### Historical statutory scope and source qualifications

Two-to-one majority; Bhagwati J. dissented. Historical 1922 Act and rule 33; current law not verified. Report contains different accounting-year-end descriptions in the two opinions; assessment year 1944–45 is expressly stated in the dissent at SCR 711. No current-law clearance.

### 01 FACTS OF THE CASE

A non-resident publisher valued supplies to Indian branches at percentages of marked prices. The Income-tax Officer accepted that accounting basis. On the assessee's appeal, the appellate authority gave enhancement notice and recomputed Indian income by reference to world profits and turnover.

Source: Primary report: SCR 691–694, 711–713

### 02 DISCUSSION BY THE HON'BLE COURT

The majority held that the section 13 opinion is a reasoned statutory determination, not an inviolate personal discretion. Once properly seized of the assessment, the appellate authority could revise the accounting-method determination and apply rule 33. Bhagwati J. dissented, considering rejection of the method reserved to the Income-tax Officer and allowing only remand for fresh exercise.

Source: Primary report: Majority SCR 697–710; dissent SCR 719–738

### 03 JUDICIAL DECISION

Revenue appeal allowed by majority; High Court judgment set aside and first two reference questions answered affirmatively. Third question did not arise. Each party bore its own costs throughout.

Source: Primary report: SCR 693, 710–711, 738

### 04 OUTCOME / IN WHOSE FAVOUR

Revenue succeeded on appellate jurisdiction to reject the accounting method and use rule 33 after notice.

Source: Primary report: SCR 710–711, 738


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### 05 AKHB REVIEW POINT

Separate a jurisdictional power from justification for an estimate on evidence. The case concerned the existing assessed business, not a new source of income; the majority expressly distinguished new-source cases. Preserve reasonable opportunity before enhancement and distinguish the dissent from the operative ruling.

Source: Primary report: SCR 695, 703–710

## SOURCE & VERIFICATION

Supreme Court Reports primary scan — public eSCR mirror

Complete 50-page Supreme Court Reports scan. Any adjoining report fragments remain in the unchanged original and are excluded from this analysis.

Open cited source rendition

## STATUTORY SCOPE

Historical legislation expressly identified in this note. This is not a decision under the Income-tax Act, 1961 or the Income-tax Act, 2025. Verify enacted wording, commencement, transition and subsequent judicial treatment independently before modern reliance.

## LATER TREATMENT

Source checked 2026-10-23. Subsequent treatment and present-law applicability have not been comprehensively checked.

### AI DISCLOSURE

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