

The Commissioner of Income-tax, Punjab v. Shri Thakur Das Bhargava, Advocate, Hissar

Civil Appeal No. 236 of 1955 — Single Revenue appeal on section 66A(2) certificate; criminal defence proceedings are factual background, not target proceedings.

[1961] 1 SCR 75 | 1960-07-27

Fees later settled on charitable trust were professional income at receipt because the payers had imposed no overriding trust or legally enforceable obligation at that time.

1922 Act: 66 | 1922 Act: 66A(2)

3 Judges | S. K. Das | M. Hidayatullah | J. C. Shah

01 FACTS OF THE CASE

The Rs. 32,500 was taxable professional income before its charitable application. The advocate agreed to defend the Farrukhnagar accused after proposing that funds paid to him would support a charitable trust he would create. He received Rs. 32,500 in July 1945 and executed a trust deed on 6 August 1945. The Tribunal and High Court inferred that he had received it for an existing trust rather than personally. Revenue challenged that legal inference for 1946-47.

Source: [SCR 76-78; target passages only,shared-page exclusions in read bounds.](#)

02 DISCUSSION BY THE HON'BLE COURT

S. K. Das J accepted the Tribunal's facts but rejected its inference. The clients sought the advocate's services; they did not use imperative words creating a trust or impose an enforceable obligation at payment. The deed described the advocate himself creating the trust from professional income. A trust needs no technical wording, but must still impose an obligation to apply the property for purposes independent of the recipient. His voluntary intention to devote the fees to charity did not supply that obligation. Bejoy Singh Dudhuria's overriding-title principle therefore did not apply.

Source: [SCR 79-81; target passages only,shared-page exclusions in read bounds.](#)

03 JUDICIAL DECISION

The amount was the advocate's professional income when received. The later trust represented application of that income, not diversion before it arose to him.

Source: [SCR 81-82; target passages only,shared-page exclusions in read bounds.](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue appeal allowed; High Court judgment set aside. The reference was answered that the Rs. 32,500 was taxable in the advocate's hands. Revenue awarded costs throughout.

Source: [SCR 82-82; target passages only,shared-page exclusions in read bounds.](#)

05 AKHB REVIEW POINT

Identify who imposed the obligation, when it arose and whether it was enforceable before receipt. A charitable destination alone does not establish diversion. The Court did not say that every fee arrangement involving charity must produce the same result.

Source: [SCR 79-81; target passages only, shared-page exclusions in read_bounds.](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: Civil Reference No. 7/1952

Relationship: Punjab High Court judgment 3 August 1953; fitness certificate 28 December 1953.

SOURCE & VERIFICATION

Original reported Supreme Court judgment

8-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All 8 physical text and image pages personally read; SCR75-82. Target boundaries: physical PDF pages 1-8; SCR 75-82. Start: case caption at top of first page. End: above next case caption/divider. Next State of Uttar Pradesh v. Raja Syed Mohammad Saadat Ali Khan caption/headnote on p. 8 is excluded. Physical p. 3 running margin prints 1860; target caption and judicial opening establish 27 July 1960.

Open cited source rendition

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STATUTORY SCOPE

Indian Income-tax Act, 1922; 66, 66A(2)

The retained Finance Act 2011 text of section 28(i) supplies the later business/profession charging comparison. The target's conclusion that fees first belonged to the advocate is distinct from any separate charitable deduction or trust-exemption claim, neither verified here.

Section 26(2)(a), Finance Act 2026 text, concerns professional profits; it does not settle overriding title or charitable deductions.

Historical operative law remains separate from the specified later text. Tax-year applicability, unexamined statutory conditions, complete transition provisions and comprehensive later judicial history have not been verified.

LATER TREATMENT

Source checked 2026-10-08. No specific subsequent judicial treatment independently verified for this note.

Bejoy Singh Dudhuria is an antecedent authority distinguished in the target, not later treatment.

Antecedent authorities are not subsequent treatment.

IDENTIFIED SOURCE LINKS**[Income-tax Act,1961: bounded later-version comparison](#)**

DOR-hosted Taxmann compilation as amended by Finance Act 2011 The retained Finance Act 2011 text of section 28(i) supplies the later business/profession charging comparison. The target's conclusion that fees first belonged to the advocate is distinct from any separate charitable deduction or trust-exemption claim, neither verified here. Identified 2011 version; not current consolidated law, whole-Act or image review. Text pages read: 42, 202-203.

[Income-tax Act, 2025 bounded provisions](#)

Official compilation as amended by Finance Act 2026 Version lines 0-13; section 26(1)/(2)(a), lines 2190-2194, physical pp 55-56. Capture hashes identify exact extracted tool-output bytes, not remote PDF bytes. No whole-source, image, current-applicability or exhaustive history claim.

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