

Setabgunj Sugar Mills Ltd. v. The Commissioner of Income-tax, Central, Calcutta

Civil Appeal No. 143 of 1958 — Consolidated appeal from the Tribunal merits order; dismissed without costs and without a decision on the underlying same-business merits. and connected proceedings (full list below)

[1961] 2 SCR 488 | 1960-11-17

Whether several ventures form the same business is a mixed question of law and fact; the High Court had to call for a reference, without the Supreme Court deciding the claimed loss set-off.

1922 Act: 24(2) | 1922 Act: 66(2)

3 Judges | J. L. Kapur | M. Hidayatullah | J. C. Shah

01 FACTS OF THE CASE

The sugar company also traded in gunnies, jute and mustard seeds. For assessment year 1948-49, the officer offset the current sugar loss against trading profits but refused to set off carried-forward sugar losses. The first appellate authority allowed the further set-off, while the Tribunal restored refusal because the activities were not the same business. The Tribunal declined a reference, and the Calcutta High Court summarily rejected the company's section 66(2) application. The company brought two consolidated special-leave appeals: one against the Tribunal's merits order and one against the High Court's refusal.

Source: [SCR 489-491; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court adopted the inquiry into interconnection, interlacing, interdependence and unity among ventures. Relevant evidence could include common control and management, agency, capital, books and staff, the relationship between transactions, and whether one venture could close without changing the other's structure. Those underlying matters required factual findings, but deciding whether the established facts satisfied the statutory same-business condition was a legal inference. The conclusion was therefore not insulated from reference review merely because it depended on many facts. The differing inferences drawn by the first appellate authority and Tribunal reinforced why the Revenue could not simply assert that only the Tribunal's outcome was possible.

Source: [SCR 491-492; judicial reasoning; opinion boundaries preserved](#)

03 JUDICIAL DECISION

A question of law arose as to whether sugar manufacture and the specified commodity dealings constituted the same business under section 24(2). The Court allowed Civil Appeal 144 and directed the High Court to obtain a statement from the Tribunal and decide that question. It expressed no opinion on the substantive entitlement to set-off and dismissed Civil Appeal 143 so the High Court could examine the matter first through the reference procedure.

Source: [SCR 492-493; holding and expressed limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Civil Appeal 144 of 1958 allowed; Civil Appeal 143 of 1958 dismissed. The reference route reopened; the Supreme Court neither granted nor finally rejected the carried-forward loss claim. Costs in Civil Appeal 144; no order for costs in Civil Appeal 143.

Source: [SCR 492-493; operative disposition and costs](#)

05 AKHB REVIEW POINT

A successful procedural appeal is not a merits allowance. Preserve the two appeal units and their distinct consequences. For any later same-business issue, assemble evidence of operational unity rather than relying only on common ownership or incorporation. The reason for asking that question also matters: a later loss provision may use different conditions from the historical section 24(2), and this reference direction cannot supply a missing statutory restriction.

Source: [SCR 491-493; editorial analysis based on the indicated reasoning](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 143 of 1958 — Consolidated appeal from the Tribunal merits order; dismissed without costs and without a decision on the underlying same-business merits. / Civil Appeal No. 144 of 1958 — Consolidated appeal from High Court refusal to require a reference; allowed with costs and a direction to call for a case statement.

ORIGINATING PROCEEDINGS

1.

Case numbers: I.T.A. No. 4309 of 1954

Relationship: Calcutta Tribunal proceeding; order 15 March 1955 challenged in CA 143

2.

Case numbers: Income-tax Matter No. 9 of 1956

Relationship: Calcutta High Court section 66(2) proceeding; order 27 April 1956 challenged in CA 144

SOURCE & VERIFICATION

Original reported Supreme Court judgment

6-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 6 pages/SCR488-493; target begins below rule p 1 after Ahmedabad Textile Industry Research Association conclusion and ends above rule p 6 before Bipinchandra caption. Two consolidated appeals, 143 against Tribunal and 144 against High Court, have separate opposite dispositions; no merits set-off decision.

Open cited source rendition

Ahmedabad Textile Industry's Research Association concludes above the p 1 rule; Bipinchandra begins below the p 6 rule. Both adjacent cases are excluded.

The source index's lead CA 143 does not capture CA 144 or the separate dispositions; both are retained.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 24(2), 66(2)

The Finance Act 2011 section 72(1)(i) permits carried-forward ordinary business loss against profits of any business or profession carried on by the assessee, subject to the chapter. It does not repeat the old same-business condition in the form involved here; the 1960 tests cannot be imported without a provision requiring them.

No corresponding 2025 provision was verified for the loss carry-forward provisions; no renumbering or present-law equivalence is asserted.

The operative historical law is identified separately. Only the stated later statutory versions and passages were checked; comprehensive subsequent history and applicability to a particular later tax year remain unverified.

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted except where expressly stated.

No later primary application of these same-business tests has yet been verified. The order did not decide whether this company's activities actually formed one business.

Earlier authorities discussed within the target judgment are not treated as later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: Section 72](#)

DOR-hosted Taxmann compilation, as amended by Finance Act 2011 Only identified statutory limbs on these pages, plus version page 42. Not a current consolidated text, Gazette-original authentication, whole-Act or image review. Only the named 2011 provisions are compared. Text pages read: 409-410.

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