

M/s. Haji Aziz and Abdul Shakoor Bros. v. The Commissioner of Income-tax, Bombay City II

Civil Appeal No. 110 of 1957 — Single Supreme Court civil appeal disposed of by the target judgment.

[1961] 2 SCR 651 | 1960-11-24

A customs fine paid to release dates imported in breach of a prohibition was not deductible business expenditure, even though confiscation operated against the goods rather than personally against the trader.

1922 Act: 10(2)(xv)

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

01 FACTS OF THE CASE

The firm imported and sold dates. During the relevant accounting year, imports by steamer were prohibited while country-craft imports remained permitted. Some Iraqi consignments arrived by steamer and were confiscated. The firm exercised the statutory option to redeem them by paying fines reduced on appeal to Rs. 82,250, then sold the released goods. It claimed the payment under section 10(2)(xv). The Tribunal majority allowed it, but the Bombay High Court held that it was a penalty for an illegal act rather than a deductible salvage expense.

Source: [SCR 653-654; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court examined the Sea Customs provisions and treated the redemption payment as a penalty arising from the prohibited import. Characterizing confiscation as a proceeding against goods did not answer the separate income-tax question. Authorities discussing proceedings in rem, personal punishment and double jeopardy addressed different issues. For deduction, the payment had to satisfy the business-purpose requirement, not merely arise during trading or preserve stock that could later be sold. The Court distinguished ordinary commercial loss from a penalty incurred for contravening a statutory prohibition. Absence of moral turpitude did not transform such a penalty into expenditure wholly and exclusively for earning business profits. The firm's factual claim that it had instructed shipment only by country craft was unsupported by the correspondence relied upon.

Source: [SCR 654-664; judicial reasoning; opinion boundaries preserved](#)

03 JUDICIAL DECISION

The fine was not an allowable deduction under section 10(2)(xv). The Court rejected the proposed distinction between a personal penalty and a fine paid in lieu of confiscation of trading stock for purposes of this deduction. Its operative conclusion concerned the redemption expenditure actually paid; the goods had been released and sold. It did not adjudicate a separate claim for the value of goods finally lost through confiscation.

Source: [SCR 663-664; holding and expressed limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee firm's appeal dismissed. Disallowance of the Rs. 82,250 redemption payment remained effective. Appeal dismissed with costs.

Source: [SCR 664-664; operative disposition and costs](#)

05 AKHB REVIEW POINT

Identify the exact outgoing: a redemption fine, a compensatory charge and a claim for confiscated-stock loss pose different questions. A commercially useful payment can retain its penal character. Keep this 1922 Act holding separate from later statutory exclusions and the later confiscation-loss authorities; neither the in-rem label nor a generic statement that illegal businesses are taxed settles all those routes.

Source: [SCR 653-664; editorial analysis based on the indicated reasoning](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: I.T.R. No. 57/X of 1954

Relationship: Bombay High Court originating reference, as printed; judgment 25 February 1955

SOURCE & VERIFICATIONOriginal reported Supreme Court judgment

14-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 14 pages/SCR651-664. Target caption begins below dividing rule on p 1 after Jagannath Kissonlal conclusion; Kapur J opinion p 2-14 ends above rule on p 14. Madan Mohan Damma Mal begins below p 14 rule and is excluded. All printed English/Indian authorities and statutory extracts read.

Open cited source rendition

p 1 above the dividing rule concludes Jagannath Kissonlal; p 14 below the rule starts Madan Mohan Damma Mal. Both are excluded from this holding.

The printed High Court reference is 57/X of 1954; the extra X is retained rather than normalized away.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 10(2)(xv)

The official 1961 Act page displayed year 2025. Section 37(1) retains the general business-expenditure test, but its Explanations separately exclude unlawful-purpose expenditure and specified other categories. This is a textual comparison; it does not collapse business-loss and expenditure routes.

The official 2025 Act page displayed year 2026. Section 34(1) contains the general expenditure test; 34(2)(a) and 34(3) address unlawful-purpose expenditure. These express later limits require separate application, and this mapping does not decide a confiscation-loss or other non-expenditure claim.

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.

Other provisions addressed: Sea Customs Act, 1878, sections 167 item 8,183 and 193

LATER TREATMENT

Source checked 2026-10-08. CIT v. Prakash Chand Lunia (24 April 2023) applied Haji Aziz while rejecting the silver-confiscation loss claim. Shah J distinguished Piara Singh because the taxpayer conducted legitimate silver trading rather than a smuggling business. Sundresh J concurred in the result with broader separate reasons under section 37 Explanation 1, criticizing Piara Singh and treating T. A. Quereshi as per incuriam.

Verified only from the identified judicial-text reproduction: Shah J paras 6.1–8.1 and Sundresh J paras 24–27. The two routes are kept distinct; no comprehensive subsequent-history, official 2023PDF/image or universal confiscation-rule certification is made.

Specific 2023 Supreme Court use and the two separate reasoning routes only.

IDENTIFIED SOURCE LINKS

[Income-tax Act,1961,section 37](#)

Official departmental page displayed 2025 Header/version; complete substantive sectionlines 63–95 Exact retained passages personally read; no raw officialHTML/PDF, image or whole-Act verification claimed.

[Income-tax Act,2025,section 34](#)

Official departmental page displayed 2026 Header/version; complete sectionlines 63–73 Exact retained passages personally read; no raw officialHTML/PDF, image or whole-Act verification claimed.

[CIT, Jaipur v. Prakash Chand Lunia \(D\) through LRs & Anr.,24 April 2023](#)

Shah J paras 6.1–8.1; Sundresh J separate-concurrence attribution and paras 24–27 Indian Kanoon reproduction only. Displayed bench metadata conflicts with signed-text names; reliance is on the signed text identifying Shah and Sundresh. No officialPDF/imageverification or full 92-page read claimed.

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