

Commissioner of Income-tax, Bombay v. M/s. Abdullabhai Abdulkadar

Civil Appeal No. 312 of 1959 — Supreme Court special-leave appeal by Revenue / Income-tax Reference No. 21 of 1956 — Bombay High Court originating reference; order 23 August 1956
[1961] 2 SCR 949 | 1960-12-06

Tax paid through the statutory agency for a nonresident principal was not a deductible loss or bad debt of the agent's own trade merely because the parties had business dealings.

1922 Act: 10(1) | 1922 Act: 10(2)(xi) | 1922 Act: 10(2)(xv) | 1922 Act: 42(1) | 1922 Act: 42(2) | 1922 Act: 43

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

01 FACTS OF THE CASE

A commission-agent firm traded with a Port Sudan nonresident and was treated as his statutory agent for 1942-43 through 1945-46. It paid Rs. 3,78,491 in the historical tax proceedings. After crediting funds held, the principal's account showed Rs. 3,20,162 due to the firm. For 1953-54 the firm claimed that amount as a deductible bad debt or loss. The Tribunal allowed it, and the High Court upheld deduction as a business loss under section 10(1) of the Indian Income-tax Act, 1922.

Source: [SCR 950-951: agency years, amounts, claim year and proceedings.](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court accepted that commercial computation of profits may permit losses not expressly enumerated in section 10(2). But the loss must spring directly from, and be incidental to, the assessee's own business. A connection with its trade, or liability imposed in another capacity, was insufficient. The firm's obligation concerned tax arising from another person's business. Badridas Daga, involving misappropriation by an employee engaged in the assessee's own business, did not establish the required nexus here. Nor did the general commercial-profit principle in Calcutta Company do so. The bad-debt alternative required a debt arising as an incident of the trade, rather than any unrecovered amount appearing in an account.

Source: [SCR 951-956: statutory liability, own-business nexus and bad debts.](#)

03 JUDICIAL DECISION

The amount was not an allowable deduction under section 10(1) or the bad-debt provision in section 10(2)(xi). The Court reversed the High Court and answered the amended reference question against the firm. The earlier treatment of the claim under section 10(2)(xv) forms part of the procedural history; the operative reasoning focused on business-loss and trading-debt character.

Source: [SCR 955-956: rejected deduction and reference answer.](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue appeal allowed; High Court judgment and order set aside. The claimed Rs. 3,20,162 deduction failed. Revenue awarded costs in the Supreme Court and High Court.

Source: [SCR 956 conclusion above Hoshiarpur caption.](#)

05 AKHB REVIEW POINT

Distinguish a debt arising from earning the assessee's trading income from reimbursement expected after discharging somebody else's tax. Book entries, commercial dealings and statutory agency do not themselves establish deductibility. This is not a rule excluding every agency-related loss: the Court preserves genuine own-business losses. Later bad-debt conditions and representative-assessment provisions must be examined independently.

Source: [SCR 953-955: direct/incidental nexus versus other capacity.](#)

SOURCE & VERIFICATIONOriginal 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/image pages/SCR 949-956. Target caption p 1 top; opinion Kapur p 2 upper third through p 8 Appeal allowed around midpage and its Hagart footnote bottom beneath Hoshiarpur headnote. No preceding case. Exclude Hoshiarpur caption/coram/headnote p 8 below separator, retain target bottom footnote. Tax payment nonresident principal not own business loss or trading bad debt; s 42(1) and 42(2) references both printed; do not replace operative historical scheme with present representative assessment.

Open cited source rendition

The opinion references both 42(1) and 42(2), quoting 42(2) at SCR 952; the historical scheme is recorded as printed, not silently converted into modern representative-assessment provisions.

Physical 8 contains following Hoshiarpur material below the separator; the Hagart footnote at the bottom belongs to Abdullahhai and is retained.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 10(1), 10(2)(xi), 10(2)(xv), 42(1), 42(2), 43

Displayed 2025 section 28(i) concerns business profits. Sections 36(1)(vii) and 36(2) require the relevant write-off and, ordinarily, prior income recognition or money lent in the assessee's banking or money-lending business, with further specified conditions. A payment for another taxpayer does not automatically satisfy those requirements.

Section 31(2)-(3) separately addresses bad-debt write-off, income or lending nexus, recoveries and applicable provision-account conditions within the section 26 business-income scheme. The historical judgment does not itself determine eligibility under those later conditions or modern representative-assessment rules.

The judgment applies the historical 1922 Act. The 2025 Act generally commenced 1 April 2026. Selected section 536(1), (2)(a)-(e), (3)-(4) preserve earlier operation and specified proceedings. Only identified versions and passages were checked; applicability to a current assessment requires its tax year, savings and full governing law.

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted; this is not a finding that later treatment is absent.

Comprehensive subsequent history and present-law applicability remain unverified.

Primary authorities cited within this judgment are not later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: 28\(i\)](#)

Official Income-tax Act, 1961 page displayed year 2025 Header/version 38-58; opening and 28(i)63-70. Only stated official web-extracted text personally read. No original HTML/PDF integrity, PDF images, entire Act or comprehensive current-law claim.

[Income-tax Act, 2025: 26\(1\),\(2\)\(a\)](#)

As amended by Finance Act, 2026 Web 2190-2194, including 2193 cross-page continuation. Only stated official web-extracted text personally read. No original HTML/PDF integrity, PDF images, entire Act or comprehensive current-law claim.

[Income-tax Act, 1961: 36\(1\)\(vii\),36\(2\)](#)

Official Income-tax Act, 1961 page displayed year 2025 Header/version 38-58; 99-103 both provisos/explanations; 212-219 full 36(2). Only stated official web-extracted text personally read. No original HTML/PDF integrity, PDF images, entire Act or comprehensive current-law claim.

[Income-tax Act, 2025: 31\(2\)-\(3\)](#)

As amended by Finance Act, 2026 Web 2347-2350 heading/opening and 2398-2429 full 31(2)-(3), including 2408 cross-page; no bank-table quantum claim. Only stated official web-extracted text personally read. No original HTML/PDF integrity, PDF images, entire Act or comprehensive current-law claim.

[Income-tax Act, 2025: commencement and selected savings](#)

As amended by Finance Act, 2026 Title/version and section1(1)-(3), web0-13; section536(1),(2)(a)-(e), web24385-24408; section536(3)-(4), web24597-24601. Selected savings only, not full section536. Only stated official web-extracted text personally read. No original HTML/PDF integrity, PDF images, entire Act or comprehensive current-law claim.

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