

Raja Bahadur Visheshwara Singh and Others v. Commissioner of Income-tax, Bihar and Orissa

Civil Appeal Nos. 137-141 of 1958 — Five Supreme Court appeals by special leave; the source identifies appellants 2-4 in the appearances but does not print their names or allocate individual appeal numbers to assessment years, and connected proceedings (full list below)

[1961] 3 SCR 287 | 1960-12-15

The scale, frequency, accounts and relationship of share transactions to holdings supported the finding of business dealing, despite earlier investment treatment and the taxpayer's primary status as a zamindar.

1922 Act: 66(1) | 1922 Act: 66(2)

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

01 FACTS OF THE CASE

The evidence supported treating the disputed share profits as business income. The assessee, a member of the Darbhanga family with an estate and allowance, invested surplus funds in shares and securities recorded in Account No.1. A second account recorded purchases financed by an interest-free advance from his brother. Earlier disposals had received investment treatment. For assessment years 1944-45 through 1948-49, however, the officer assessed the substantial trading surpluses as business profits. The Appellate Assistant Commissioner excluded the first two years' profits; after both sides appealed, the Tribunal held that the assessee dealt in shares. The High Court answered both referred questions against him, prompting five Supreme Court appeals.

Source: [SCR 289-292; target passages only; shared-page exclusions recorded in read bounds.](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished an ordinary investor's realization or change of investments from transactions forming part of a business. Neither the assessee's zamindari background nor his use of surplus funds conclusively determined the classification. The transaction tables, substantial purchases and sales, frequency, accounting treatment and ratio of sales to purchases and total holdings provided material supporting the Tribunal's conclusion. The referred question was narrowly concerned with the existence of supporting material. Venkataswami Naidu and Oriental Investment recognized that applying the legal concept of trade may involve mixed law and fact, but did not require reversal here. Even on a wider formulation, the proved circumstances supported assessment. Earlier years' findings did not operate as res judicata: the Tribunal could assess the activity shown by the later years' evidence.

Source: [SCR 293-296; target passages only; shared-page exclusions recorded in read bounds.](#)

03 JUDICIAL DECISION

The High Court correctly answered both questions affirmatively. There was material to support business dealing in both accounts, and the earlier assessment finding did not prevent the Tribunal from reaching its conclusion for the years now under appeal.

Source: [SCR 295-296; target passages only; shared-page exclusions recorded in read bounds.](#)

04 OUTCOME / IN WHOSE FAVOUR

All five assessee appeals dismissed. The business-income treatment upheld by the High Court remained effective for the disputed assessments. Costs awarded; one hearing fee in the Supreme Court.

Source: [SCR 296-296; target passages only; shared-page exclusions recorded in read_bounds.](#)

05 AKHB REVIEW POINT

Build the classification from the complete pattern of activity rather than any single factor such as borrowing, frequency or an "investment" account label. A material-support reference is also narrower than a fresh merits determination. The historical contrast between capital realization and business profit is not a present-day exemption for investment gains. Likewise, the res judicata statement should not be used to ignore changed statutory rules or the separate question of consistency where material facts remain unchanged. Those later issues were not decided here.

Source: [SCR 294-296; target passages only; shared-page exclusions recorded in read_bounds.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 137-141 of 1958 — Five Supreme Court appeals by special leave; the source identifies appellants 2-4 in the appearances but does not print their names or allocate individual appeal numbers to assessment years.

ORIGINATING PROCEEDINGS

1.

Case numbers: Misc. Judicial Case Nos. 362-366 of 1955

Relationship: Patna High Court judgment and order dated 26 April 1956.

SOURCE & VERIFICATION

Original reported Supreme Court judgment

10-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 ten physical text and image pages, SCR287-296, including transaction tables pp4-5. Target starts below Calvary Mount Estates conclusion on p1; that neighboring agricultural-tax material is excluded. Caption image reads OTHERS; OCR and frozen catalogue read OTHEHS; p2 margin says Another while pp3ff say Others; five Supreme Court appeals 137-141 of 1958 and Patna MJC362-366 of 1955 at p3 establish grouped identity. Single Kapur J judgment pp3-10. Loan chronology prints July 16, 1940 at p4 and July 1948 at p9; no silent harmonization. Headnote AAC relief mentions 1944-45 only whereas judgment p6 includes 1944-45 and 1945-46. Dismissal/costs p10. The bottom [1961]3SCR279 footnote on p1 belongs to the preceding Calvary case and is excluded despite lying below target headnote.

Open cited source rendition

Physical p1 begins with the unrelated Calvary Mount Estates agricultural-income-tax conclusion; excluded.

The original caption image reads OTHERS, whereas extracted text and the frozen catalogue read OTHEHS; p2 running margin says Another while later margins say Others. Display follows the primary caption and grouped appeals; both historical title forms remain preserved.

Judgment p4 dates the borrowing arrangement 16 July 1940; p9 says July 1948. The unqualified loan date is omitted rather than silently corrected.

Headnote p2 mentions AAC exclusion only for 1944–45; judicial p6 expressly includes 1944–45 and 1945–46 and controls the note.

Judicial discussion of the cited Venkataswami Naidu report and headnote citation have differing page-number presentation; no corrected parallel citation is asserted.

The bottom footnote [1961]3SCR279 on p1 belongs to the preceding Calvary Mount Estates discussion, despite its location below the Raja headnote; excluded from target citations.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 66(1), 66(2)

The retained Finance Act 2011 text separately defines business in section 2(13), excludes stock-in-trade from the general capital-asset definition in section 2(14)(i), and charges qualifying capital-asset transfers under section 45(1). Thus non-business classification is not itself a general exemption.

The Finance Act 2026 version separately defines business in section 2(20) and capital assets/stock-in-trade in section 2(22). These definitions do not decide this classification, applicable rates or later judicial consistency rules.

Historical operative law is separate from the stated bounded later versions. Tax-year applicability, unexamined conditions, complete transition provisions and comprehensive subsequent judicial treatment remain unverified.

LATER TREATMENT

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

No later case-specific judicial treatment independently verified. The earlier investment cases discussed by the Court do not verify modern capital-gains rules or subsequent consistency doctrine.

Earlier authorities in the target are not later treatment. No exhaustive citator or current precedential-status conclusion.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: bounded text comparison](#)

DOR-hosted Taxmann compilation as amended by Finance Act 2011. Only the case-specific provisions identified in statutory_mapping plus version p42. Not a current consolidated text, whole-Act or source-image review. Text pages read: 42, 47, 344–345.

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

Official compilation as amended by Finance Act 2026. The Finance Act 2026 version separately defines business in section 2(20) and capital assets/stock-in-trade in section 2(22). These definitions do not decide this classification, applicable rates or later judicial consistency rules. Actual bounded extracted-text reading; capture hash is not a hash of the remote PDF/HTML; no source-image or whole-Act claim.

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