

National Cement Mines Industries, Ltd. v. Commissioner of Income-tax, West Bengal, Calcutta

Civil Appeal No. 84 of 1958 — Supreme Court special-leave appeal / I.T.R. No. 24 of 1953 — Calcutta High Court originating reference

[1961] 3 SCR 502 | 1961-01-17

Production-linked payments under a conveyance retaining substantial rights were revenue receipts from a commercial arrangement, rather than instalments of an outright capital sale.

1922 Act: 66

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

01 FACTS OF THE CASE

The company acquired limestone and surface rights, extended leases and obtained options as part of its cement, lime and mineral business. By a deed dated 7 May 1935 it transferred benefits of four leases and two agreements to the company later known as Associated Cement Ltd. It received ₹25,000 for acquisition trouble and expenses and rights to continuing payments, including thirteen annas for each ton of cement manufactured from the transferred lands' limestone and sold. The disputed ₹77,820 for the accounting year ending 31 May 1945 was taxed in AY 1946-47; appellate authorities and the High Court sustained that treatment.

Source: [SCR504-506: acquisition, deed, payment and assessment.](#)

02 DISCUSSION BY THE HON'BLE COURT

Shah J examined the whole arrangement. Other covenants provided shares of fluxstone profits and royalties, minimum annual payments, limits on specified activities and protection of retained rights. Exhaustion of limestone could permit termination and retransfer. The transferor retained some rights and continued the business for which it had been incorporated. The transaction was not classified as an outright sale, lease or joint venture; that difficulty did not prevent identifying the receipt's commercial character. Labels and payment periodicity were not conclusive. Instalments of capital price, true annuities and participation in commercial proceeds required analysis of the contract and surrounding circumstances.

Source: [SCR506-513: covenants, classification and authorities.](#)

03 JUDICIAL DECISION

The clause 1 receipts represented income from a commercial arrangement substantially sharing the results of Associated Cement's activities. Authorities concerning outright transfers of land, copyright or exhausted assets were distinguished on their particular facts. The Court's conclusion concerned the ₹77,820 receipt; it did not separately decide the tax character of every payment under the deed.

Source: [SCR510-511, 514 lowerhalf: retained rights and commercial income.](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee appeal dismissed. The ₹77,820 remained assessable as a revenue receipt.
Dismissed with costs.

Source: [SCR514 bottom: dismissal with costs.](#)

05 AKHB REVIEW POINT

Identify what rights were actually transferred or retained and what the payment remunerates. A formula tied to output or sales is relevant in context, not a universal rule converting every variable sale price into revenue. Modern capital-gains and other charging provisions also prevent treating historical capital-receipt language as a blanket exemption.

Source: [SCR511-514: no universal test; transaction-specific conclusion.](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

13-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 13 physical text/image pages SCR502-514. PREVIOUS Central Talkies Ltd, Kanpur v Dwarka Prasad, Hidayatullah J physical 1/SCR502 top through appeal dismissed/costs and separator (~top 26%), criminal-procedure/permission-to-sue passage excluded. TARGET caption starts physical 1 ~28%, headnote through physical 2 ~60%; Shah opinion begins physical 2/SCR503 ~83%, continues to physical 13/SCR514 bottom with appeal dismissed costs. No following judgment. Clause 1 thirteen-anna production/sales-linked income; other deed covenants and prior authorities belong target reasoning; no attribution of Central Talkies disposal.

Open cited source rendition

Physical 1 begins with Central Talkies Ltd., Kanpur v. Dwarka Prasad. Its permission-to-sue discussion and dismissal are excluded from this tax note.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 66

Displayed 2025 section 28(i) concerns profits and gains of a business carried on during the previous year. The case's commercial-character analysis is relevant background, but not a determination of modern capital gains or every payment linked to minerals.

2025 section 26(1), (2)(a) provides the business-income charge. A current agreement must be analysed under the applicable charging provisions; this historical receipt classification supplies no general capital-receipt exemption.

The holding applies the historical 1922 Act. The 2025 Act generally commences 1 April 2026; selected 536(1), (2)(a)-(e), (3)-(4) preserve earlier operation and specified proceedings. Only identified versions/passages were checked; no complete savings, amendment-history or present-case applicability assessment is claimed.

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\(i\)](#)

Displayed2025 Web67-70, headingandbusinessprofitsclause. Exact stated web text personally read, including cross-page continuations. No original HTML/PDF or images, whole-Act or automatic case-applicability claim.

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

As amended byFinance Act,2026 Web2190-2194, includingcrosspage2193. Exact stated web text personally read, including cross-page continuations. No original HTML/PDF or images, whole-Act or automatic case-applicability claim.

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

As amended byFinance Act,2026 1(1)-(3)web 0-13;536(1), (2)intro/(a)-(e)web 24385-24408;536(3)-(4)24597-24601. Notfull536. Exact stated web text personally read, including cross-page continuations. No original HTML/PDF or images, whole-Act or automatic case-applicability claim.

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