

Donald Miranda v. The Commissioner of Income-tax, Bombay City-II (and connected appeals)

Civil Appeal Nos. 173-175 of 1960 — Three Supreme Court appeals from the same reference order, brought separately by the partners James Miranda, Donald Miranda and Mrs. N. Q. Miranda; individual docket-to-partner allocation is not printed. and connected proceedings (full list below)

[1962] 1 SCR 133 | 1961-03-01

The statutory excess-profits-tax repayment retained its character as business profits and qualified for the already applicable section 25(4) relief, rather than becoming income from other sources.

Indian Income-tax Act, 1922, read with historical excess-profits-tax repayment provisions | 1922 Act: 10 | 1922 Act: 12 | 1922 Act: 25(4) | 1922 Act: 34 | 1922 Act: 66A(2)

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

01 FACTS OF THE CASE

The excess-profits-tax refund retained its business character and shared the firm's section 25(4) relief. A registered Bombay wine-merchant firm, previously assessed under the 1918 Act, dissolved on 24 March 1945; S. S. Miranda and Co. Ltd. succeeded to its business the next day. Relief had already been allowed for the firm's profits from 1 April 1944 to dissolution. The firm had paid excess profits tax and made the statutory deposits that generated a repayment, stated as Rs.2,35,704. The officer taxed the partners' shares of that repayment; the Tribunal regarded them as exempt business income, but the High Court classified the refund under section 12 as income from other sources. Each partner appealed separately.

Source: [SCR 134-135; target passages only; shared-page exclusions recorded in read bounds.](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 12(1) of the Excess Profits Tax Act allowed the tax as a business expense. Section 11(11) of the Finance Act, 1946 deemed the repayment income of the previous year constituting or including the relevant chargeable accounting period, notwithstanding section 34. Reading those provisions together, the Court held that the refund restored part of the business profits previously taken as tax. Deposit in the Treasury and a statutory mechanism of repayment did not change its character. *Mc Gregor and Balfour*, dealing with the similar operative words of section 11(14), and the English *Nesbitt* reasoning supported that conclusion. The distinction between payment out of profits and payment in respect of profits did not assist the Revenue. Nor did the English classification arguments based on *Kirke's Trustees* justify section 12 treatment here.

Source: [SCR 135-139; target passages only; shared-page exclusions recorded in read bounds.](#)

03 JUDICIAL DECISION

The refunded sum fell under section 10 as business income. Given the established section 25(4) entitlement for the relevant period, the appellants obtained that relief on the repayment and the amount was not taxable in these assessments.

Source: [SCR 139-139; target passages only; shared-page exclusions recorded in read_bounds.](#)

04 OUTCOME / IN WHOSE FAVOUR

All three partners' appeals allowed. The High Court's other-sources classification was reversed and the historical section 25(4) benefit extended to the refund. Costs awarded; one hearing fee.

Source: [SCR 139-139; target passages only; shared-page exclusions recorded in read_bounds.](#)

05 AKHB REVIEW POINT

Separate the receipt's character, the statutory year to which it is attributed and the availability of relief. This decision does not establish that all tax refunds are business income, or that receipts after cessation escape tax today. Its exemption depended on a particular succession provision and repayment scheme. Modern recovery provisions require their own conditions to be tested. The source's partner-level figures do not reconcile with its aggregate and should not be silently repaired.

Source: [SCR 136-139; target passages only; shared-page exclusions recorded in read_bounds.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 173-175 of 1960 — Three Supreme Court appeals from the same reference order, brought separately by the partners James Miranda, Donald Miranda and Mrs. N. Q. Miranda; individual docket-to-partner allocation is not printed.

ORIGINATING PROCEEDINGS

1.

Case numbers: Income-tax Reference No. 36 of 1957

Relationship: Bombay High Court judgment and orders dated 11 March 1958.

SOURCE & VERIFICATION

Original reported Supreme Court judgment

7-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 seven text and image pages, SCR133-139. Target caption/coram and Civil Appeals173-175of1960 p1; single Kapur J judgment pp2-7; three partner appeals and originating Bombay ITR36of1957 pp2-3; final allowance and one hearing fee p7. No neighboring judgment included. Printed refund total235704 and partner shares58926,58926,117854 have a two-rupee arithmetic discrepancy; source values not silently corrected.

Open cited source rendition

The source prints aggregate refund Rs.2,35,704 at p2 and partner shares Rs.58,926, Rs.58,926 and Rs.1,17,854 at p3, totaling Rs.2,35,706. The two-rupee discrepancy remains unresolved; only the stated aggregate is used in the narrative.

All seven pages belong to the target; no neighboring case fragment appears.

Section 11(14) belongs to the earlier Mc Gregor and Balfour comparison; section 11(11) is the operative Indian Finance Act 1946 provision here.

STATUTORY SCOPE

Indian Income-tax Act, 1922, read with historical excess-profits-tax repayment provisions; 10, 12, 25(4), 34, 66A(2), Excess Profits Tax Act, 1940, section 12(1), Indian Finance Act, 1946, section 11(11); section 11(14) discussed through Mc Gregor and Balfour, Indian Finance Act, 1942, section 10, Excess Profits Tax Ordinance, 1943, section 2

The official section 41(1) page labelled 2026 taxes specified recoveries after a prior deduction, including qualifying amounts received when the business no longer exists, and separately addresses successors. Its statutory conditions and receipt-year rule cannot be replaced by this section 25(4) exemption.

Sections 38(1)(a), 38(2)(a) and 38(4), Finance Act 2026 version, address deduction-linked recoveries and successors. These are bounded comparisons, not continuation of the historical exemption or a finding that this refund meets those conditions.

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.

Other provisions addressed: Excess Profits Tax Act, 1940, section 12(1); Indian Finance Act, 1946, section 11(11); section 11(14) discussed through Mc Gregor and Balfour; Indian Finance Act, 1942, section 10; Excess Profits Tax Ordinance, 1943, section 2

LATER TREATMENT

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

Mc Gregor and Balfour and the English cases are authorities considered in the target judgment; no later case-specific judicial treatment was verified.

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

IDENTIFIED SOURCE LINKS

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

Official compilation as amended by Finance Act 2026 Sections 38(1)(a), 38(2)(a) and 38(4), Finance Act 2026 version, address deduction-linked recoveries and successors. These are bounded comparisons, not continuation of the historical exemption or a finding that this refund meets those conditions. Actual bounded extracted-text reading; capture hash is not a hash of the remote PDF/HTML; no source-image or whole-Act claim.

[Income-tax Act, 1961 section 41](#)

Official departmental provision page labelled 2026 The official section 41(1) page labelled 2026 taxes specified recoveries after a prior deduction, including qualifying amounts received when the business no longer exists, and separately addresses successors. Its statutory conditions and receipt-year rule cannot be replaced by this section 25(4) exemption. 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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