

Commissioner of Income-tax, Bombay v. Scindia Steam Navigation Co. Ltd.

Civil Appeal No. 501 of 1957

[1962] 1 SCR 788 | 1961-04-06

Tax references: a new legal aspect of an existing question may be argued; a wholly new question cannot enter merely through facts found.

Indian Income-tax Act, 1922: sections 10(2)(vii) fourth proviso, 33(4), 59 and 66(1), (2), (4), (5) | Income-tax (Amendment) Act, 1946 (Act VIII of 1946) | Income-tax Rules: rule 22A and form R(T)

5-judge bench; unanimous dismissal. T. L. Venkatarama Aiyar, J. wrote for four judges; J. C. Shah, J. concurred separately in the result but differed on the general scope of reference jurisdiction. | S. K. Das, J. | J. L. Kapur, J. | M. Hidayatullah, J. | J. C. Shah, J. | T. L. Venkatarama Aiyar, J.

Assessment years: 1946-47

Historical statutory setting

Historical section 66 advisory-reference procedure and 1946 amendment; do not transpose automatically to present appellate jurisdiction or recapture rules.

Source and scope caution

Shah J. concurred in dismissal but differed on the general interpretation of section 66; this is not a 4:1 split on the result.

Additional scope caution

The report ordinarily states commencement as 4 May 1946, but SCR p.816 prints 5 May; either is later than 1 April. No invented correction is made.

Additional scope caution

SCR p.793 identifies accounts from 1 July 1944 to 30 June 1945; SCR p.814 instead labels the year of account 1945-46. The note preserves the unambiguous assessment year 1946-47.

Additional scope caution

The running margin continues to name Venkatarama Aiyar after Shah's separate opinion begins on SCR p.816; the signed introduction and express opinion heading control.

Additional scope caution

Adjacent judgments at the start and end of the physical asset are excluded.

No current-law clearance

Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

01 FACTS OF THE CASE

The requisitioned steamship El Madina was lost through enemy action in March 1944. Compensation exceeded its original cost, recovering depreciation of Rs.9,26,532. Revenue included that amount for assessment year 1946-47 under the fourth proviso to section 10(2)(vii). The assessee had disputed the receipt year before the Tribunal. On reference it instead argued that the amending proviso was not in force on 1 April 1946. The High Court accepted that contention despite Revenue's jurisdictional objection (SCR pp.791-795; PDF pp.4-8).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The four-judge opinion held that a question arises from the Tribunal's order when raised and decided, raised but omitted (deemed decided), or decided though not raised; one neither raised nor considered does not qualify merely because it arises from the facts. But a new legal aspect of the same referred question is permissible. Here the amendment's applicability fell within whether the specified Rs.9,26,532 was properly included. General wording cannot admit unrelated questions: the statement of case fixes the true scope. Shah J. agreed with the result but rejected importing the narrower general restriction. Both opinions are preserved (SCR pp.810-823; PDF pp.23-36).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

Revenue's appeal was dismissed with costs. The amendment did not operate retrospectively from 1 April 1946, so the High Court's negative answer stood. Revenue's further attempt to tax recouped depreciation as profits of the assessment year was itself rejected as an entirely new point outside the reference (SCR p.816; PDF p.29; concurrence concludes SCR p.823 / PDF p.36).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee: the disputed Rs.9,26,532 was not taxable under that proviso for assessment year 1946-47. All five judges agreed on dismissal; the division concerned the wider jurisdictional reasoning, not operative relief (SCR pp.816-823; PDF pp.29-36).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: separate the legal question actually at issue from additional arguments supporting it, and read the reference with the statement of case. Preserve questions before the Tribunal and in the reference application. Independently test the commencement and retrospective terms of the exact taxing provision; prior depreciation alone does not establish a charging route.

Source: [Primary judgment: review point](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full 36-page SCR asset read in page-preserving text and rendered/viewed, including both opinions; reasons begin on PDF p.4 / SCR p.791. Preceding Subbarama Naidu fragment on p.1 and following Madan Lal Arora report on p.36 excluded. Identity, signed date, bench and docket verified; no same-party, docket, source-hash or standalone judgment match. Existing citations to Scindia in other notes are not duplicate publication.

[Open cited source rendition](#)

Catalogue source 1962_1_788_823: SHA-256

701c2658f8a690abc7c9fe62d2b8d8aa281c30605693636ea7a37c889d481916, 36 pages, read and visually inspected in full.

The published original preserves the exact catalogue bytes and verified hash.

The source verifies identity, bench, provisions, opinion structure and operative order.

No exact source-hash, asset-ID, SCR-citation, docket or same-judgment publication match was found.

STATUTORY SCOPE

Historical section 66 advisory-reference procedure and 1946 amendment; do not transpose automatically to present appellate jurisdiction or recapture rules.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.