

The Fazilka Electric Supply Co. Ltd. v. Commissioner of Income-tax, Delhi

Civil Appeal No. 183 of 1961

[1962] Supp. 3 SCR 496 | 1962-03-01

Whether Government exercise of a purchase option in an electricity licence was a sale attracting the historical balancing charge under section 10(2)(vii)

Indian Income-tax Act, 1922: section 10(2)(vii) | Indian Electricity Act, 1910: sections 3, 7, 10

Two-judge bench; judgment delivered by S. K. Das, J. | S. K. Das, J. | J. C. Shah, J.

Historical ruling; verify current law

The ruling construes the 1922 Act and a historical electricity licence. It expressly left open whether section 10(2)(vii) reached every compulsory transfer.

01 FACTS OF THE CASE

Punjab granted a fifteen-year electricity licence whose agreed terms gave Government a purchase option. Government exercised it in 1949 and paid more than the undertaking's written-down value. For assessment year 1950-51 the Income-tax Officer taxed the statutory portion of that excess. The company argued that the transaction was compulsory acquisition, not a sale.

Source: [Primary judgment: facts and procedural setting](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read the Electricity Act, rules and licence together. The applicant proposed definite licence terms and Government accepted or modified them; grant of the licence supplied consideration. The option, timing and price mechanism therefore arose from agreement. Use of "compulsory purchase" in the statutory proviso did not convert the agreed option into compulsory acquisition.

Source: [Primary judgment: reasoning](#)

03 JUDICIAL DECISION

The Government purchase was a sale of the buildings, machinery and plant within section 10(2)(vii). The Court did not decide the broader proposition that the provision would also cover a genuinely compulsory sale.

Source: [Primary judgment: holdings](#)

04 OUTCOME / IN WHOSE FAVOUR

Appeal dismissed with costs; the High Court's answer sustaining taxability stood.

Source: [Primary judgment: operative disposition](#)

05 AKHB REVIEW POINT

AKHB analysis: identify the legal source of the transfer before applying a balancing-charge rule. A statutory framework can implement an agreed purchase option; statutory compulsion and compulsory acquisition are not interchangeable. Keep the Court's express reservation on true compulsory transfers visible.

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

SOURCE & VERIFICATION

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

Complete 12-page SCR report read in page-preserving text and every page image inspected, from the reported opening page through the operative disposition.

[Open cited source rendition](#)

Exact catalogue SHA-256 and 12-page count verified; every page was read and visually inspected.

STATUTORY SCOPE

Historical statutory provisions are described as they appeared in the report. Verify the current enactment, amendments and later judicial treatment before reliance.

LATER TREATMENT

Source checked 2026-10-12. No comprehensive later-treatment or present-law clearance is represented. The note reports the historical statutory text and result in this primary report only.

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 complete judgment, governing statutory version 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.