

M/s. Tulsidas Khimji v. Their Workmen

Civil Appeal No. 503 of 1961

[1963] 1 SCR 675 | 1962-04-11

Historical bonus computation: notional Income-tax charge for a registered partnership, with a majority ruling against adding registered-firm tax.

Industrial Disputes Act, 1947: section 10(1)(d); historical Full Bench bonus formula | Indian Income-tax Act, 1922: registered-firm and partner taxation; sections 26A and 14(2)(aa) discussed in the separate opinion

Five-judge Bench; majority opinion by B. P. Sinha, C.J.; N. Rajagopala Ayyangar, J., dissenting | B. P. Sinha, C.J. | K. Subba Rao, J. | N. Rajagopala Ayyangar, J. | J. R. Mudholkar, J. | T. L. Venkatarama Aiyar, J.

Bonus prior charge, not a tax assessment

The notional tax computation serves the historical bonus formula. It does not grant a tax deduction, alter an assessment or prescribe today's taxation of firms and partners.

The dissent did not control the order

Ayyangar J. would have added registered-firm tax and reduced bonus to two months' basic wages. The four-judge majority dismissed the appeal and retained the three-month consolidated award, less payment already made.

01 FACTS OF THE CASE

A six-partner firm carrying on clearing, forwarding, storage, insurance-agency and cotton-supervision businesses disputed bonus for the year ending 31 October 1958. The Tribunal allowed a consolidated bonus of three months' basic wages, less one month's basic wages already paid, and found a customary Diwali entitlement. For available surplus it deducted only the registered-firm tax, approximately Rs.10,000, and allowed Rs.20,000 for partners' remuneration. The employer challenged the tax basis, remuneration figure and customary-bonus finding. The workmen did not cross-appeal.

Source: [Facts and disputed prior charges: SCR678-683](#)

02 DISCUSSION BY THE HON'BLE COURT

The majority held that a notional tax charge must remain related to the tax law applicable to the employer. A registered firm could not simply be equated with a company or taxed notionally as an unregistered firm. Nor could partners' outside income or losses determine the bonus-year charge: that would import unrelated wealth and potentially delay computation. Because the partners were the employers for industrial-dispute purposes, the relevant calculation was tax on each partner's share of this firm's profits, independently of other sources. The majority allowed Rs.53,000 in round figures but refused an additional registered-firm-tax deduction as a double benefit in this formula.

Although the majority considered the Tribunal's Rs.20,000 remuneration allowance inadequate, reliable evidence did not support a replacement figure, and the Court declined to act as a regular factual appellate tribunal. On customary bonus, continuity, duration, uniformity and payment in loss years were evidentiary circumstances, not inflexible cumulative conditions. A business which had always earned profits could still establish a customary festival payment; evidence that payments were ex gratia and accepted as such, or unrelated to a festival, was material. The workmen's separate implied-contract argument was not permitted because it was absent from their statement of case.

Ayyangar J. agreed that partners' firm-share income, rather than company rates or outside income, supplied the tax basis. He dissented on adding registered-firm tax, subject to the historical rebate, and would have allowed a Rs.60,000 tax charge, Rs.40,000 remuneration and only two months' bonus. He also rejected the customary-bonus declaration. Those proposed adjustments did not become the Court's operative order.

Source: [Majority tax and bonus reasoning: SCR683-690](#); [Separate dissent, not the controlling order: SCR691-706](#)

03 JUDICIAL DECISION

The controlling tax-prior-charge ruling substituted Rs.53,000 for the Tribunal's firm-tax-only approach, calculated by reference to partners' shares of the firm's profits without outside income or losses and without adding registered-firm tax. That favourable computational point did not establish that the bonus award was excessive. After the revised charge and payment of the awarded bonus, the majority considered that a substantial profit share remained with the employer. It therefore retained the consolidated three-month basic-wage award and the customary-bonus finding.

Source: [Controlling tax charge: SCR685](#); [Effect on the award: SCR690](#)

04 OUTCOME / IN WHOSE FAVOUR

By the four-judge majority, the employer's appeal was dismissed with costs. The Tribunal's consolidated bonus of three months' basic wages remained payable after credit for the one month's basic wages already paid. There was no remand, fresh tax assessment or reduction to the two-month award proposed by the dissent. The workmen prevailed on the operative result; the employer succeeded only on the computation of the tax prior charge.

Source: [Majority-controlled final order: SCR706](#)

05 AKHB REVIEW POINT

AKHB analysis: a notional tax figure is purpose-specific, not an arbitrary rate. Identify the employer, relevant business income and governing formula before importing a company's rate, partners' outside income or another tax layer. Keep a successful computational argument separate from the final relief, and distinguish a dissent's proposed figures from the majority's order. Historical registered-firm taxation and pre-1965 bonus methodology require independent statutory and subsequent-treatment checks before any present application.

Source: [Basis of AKHB analysis: majority reasoning and final order](#)

SOURCE & VERIFICATION

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

All 32 physical pages read. Headnotes occupy SCR675-677 / PDFpp.1-3. The majority judgment runs from SCR678 to the upper part of SCR690 / PDFpp.4-16; Ayyangar J.'s dissent runs from SCR690 to SCR706 / PDFpp.16-32. The final By Court order at SCR706 confirms dismissal by the majority. No numbered paragraphs are printed.

[Open cited source rendition](#)

The full majority and separate dissent were read; physical pages 1,4,11,16,32 were visually inspected. The report's final order, rather than the dissent's proposed relief, controls.

The headnote says the year ended 30 October 1958; the majority repeatedly states 31 October 1958. The dissent initially refers to Samvat 2013 (1956-57), but later identifies the disputed year as 1957-58. This note follows the majority's repeated accounting-year description without altering the source.

The majority allows Rs.53,000 in round figures. The Rs.60,000 tax charge and Rs.40,000 partners' remuneration are proposed in the dissent and are not majority orders.

STATUTORY SCOPE

This is a historical industrial-bonus companion involving an actual disputed Income-tax prior charge under the Full Bench formula, not an Income-tax assessment appeal. It predates the Payment of Bonus Act, 1965 and does not determine modern partnership taxation or present bonus computation.

LATER TREATMENT

Source checked 2026-10-14. The majority and dissent are separated below. No comprehensive subsequent-treatment or present-law clearance is claimed.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 32](#)

SHA-256: 167c803c5d3b96980bb1573b0de95b5f68e1d92d26ccc80df5cbdac2b8ee62d7

[Related note: Metal Box Co. of India Ltd. v. Their Workmen](#)

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