

P. H. Divecha and another v. Commissioner of Income-tax, Bombay I

Civil Appeal No. 332 of 1961

[1963] Supp. 2 SCR 949 | 1962-12-11

Whether payments after termination of an exclusive bulb-distribution arrangement were taxable revenue receipts or compensation for loss of an enduring source

Indian Income-tax Act, 1922: sections 4(3)(vii), 10(5A)(d) and 12

Five-judge bench; judgment delivered by M. Hidayatullah, J. | S. K. Das, J. | J. L. Kapur, J. | A. K. Sarkar, J. | M. Hidayatullah, J. | Raghubar Dayal, J.

Historical ruling; verify current law

This judgment applies historical legislation and facts. Do not treat this note as a current-law or citator-status certificate.

01 FACTS OF THE CASE

A three-partner firm held for 16 years an exclusive territory for sale of Philips bulbs. When renewal negotiations failed and the company took over selling, it agreed as a goodwill gesture to pay each partner Rs.40,000 annually for three years; each received two quarterly payments in the assessment year.

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

02 DISCUSSION BY THE HON'BLE COURT

The agreement created an enduring monopoly-like source rather than specifying purchases, quantity or price. The payment was not shown to replace estimated profits, compensate outstanding contracts or remunerate services. Nature and quality, not amount or periodicity, controlled; the record also supported an ex gratia payment in appreciation of personal qualities.

Source: [Primary judgment: reasoning](#)

03 JUDICIAL DECISION

The receipts did not bear the character of income, profits or gains; section 4(3)(vii) therefore did not supply the primary answer, and section 10(5A)(d) did not apply.

Source: [Primary judgment: holdings](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee appeal allowed with costs in the Supreme Court and High Court.

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

05 AKHB REVIEW POINT

AKHB analysis: characterise the terminated right, payment basis and continuing obligations. Installments do not make a capital or ex gratia receipt revenue, but the factual source-and-substitution analysis is essential.

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

SOURCE & VERIFICATION

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

Complete 22-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 22-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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