

Sultan Brothers (P) Ltd. v. Commissioner of Income Tax

Civil Appeal No. 63 of 1961

[1964] 5 SCR 807 | 1963-12-06

Head of income for a furnished hotel letting: the lease was not the assessee's business, but the building and furniture were inseparably let by the parties and both streams fell under historical section 12 with the specified allowances.

Indian Income Tax Act, 1922: sections 6, 9, 10, 12(1), 12(3), 12(4) and 66(1)

5-judge Constitution Bench | B. P. Sinha, C.J. | A. K. Sarkar, J. | M. Hidayatullah, J. | K. C. Das Gupta, J. | N. Rajagopala Ayyangar, J.

Assessment years: 1953-54

Primary case rejected

The Court held that this owner was exploiting property and had never operated the hotel business; the final relief arose under section 12, not section 10.

Inseparability is contractual and factual

The test was the parties' intention that building and furniture be enjoyed together and not accepted separately. Physical attachment, a single instrument and undivided rent were not mandatory.

No universal furnished-letting rule

The result turned on this lease, its hotel-use covenant and the lessor's furniture replacement and maintenance obligations.

Source chronology retained

The report states that the lease was dated 30 August 1949 for a six-year term certain from 9 December 1946. That printed sequence is preserved and not silently corrected.

Historical statutory heads

The Court's section 9, 10 and 12 classification and depreciation allowances must not be transplanted into current provisions without separate analysis.

01 FACTS OF THE CASE

Sultan Brothers owned a building on Plot No. 7, Church Gate Reclamation, Bombay, fitted with furniture and fixtures for use as a hotel. By a lease reported as dated 30 August 1949, it let the equipped premises to Voyantzis for six years certain from 9 December 1946, reserving Rs. 5,950 monthly for the building and Rs. 5,000 for furniture and fixtures. For assessment year 1953-54, the officer assessed the building under section 9 and furniture hire under section 12. The appellate authorities and Bombay High Court rejected both the company's section 10 business-income claim and its alternative section 12(4) claim for the building (SCR pp.809-811; PDF pp.3-5).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated the statutory heads as mutually exclusive and asked from a businessperson's viewpoint whether the letting was itself business or merely an owner's exploitation of property. An asset was not inherently commercial, the company's object clause did not settle the matter, and the lessor had never run a hotel or let a going concern. Its ordinary lease covenants did not amount to hotel services, so section 10 did not apply (SCR pp.811-816; PDF pp.5-10). Section 12(4), however, had to cover an owner's building inseparably let with machinery, plant or furniture; otherwise the allowance provision would be redundant. It did not require machinery or furniture to be the primary letting (SCR pp.816-819; PDF pp.10-13). 'Inseparable' referred to the parties' intention: whether both were to be enjoyed together as practically one letting and neither would have been let or accepted alone. The hotel-use restriction, removal restriction and lessor's continuing furniture obligations established that intention despite separately stated rent and hire (SCR pp.819-823; PDF pp.13-17).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court set aside the High Court's judgment and allowed the appeal with costs. Building rent was to be computed separately with the allowances in section 12(4), furniture and fixture income with section 12(3) allowances, and no part under section 9 or section 10 (SCR p.823; PDF p.17).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

Qualified result in favour of the assessee/appellant. Its section 10 business theory failed, but its alternative section 12 case succeeded because the actual lease made the building and furniture lettings inseparable (SCR pp.816-823; PDF pp.10-17).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: identify the actual activity before selecting the head of income, then read the full composite-letting contract. Record prior operation of the business, object clause, services, separate pricing, permitted use, removal rights, renewal, repair and replacement obligations, and whether either component would realistically be let or accepted alone. Apply the governing statutory year independently; Sultan Brothers supplies a historical factual test rather than current-law clearance (based on SCR pp.811-823; PDF pp.5-17).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 17-page SCR report read and checked. The editorial headnote and adjacent-report boundary text were distinguished from the judicial opinion and operative order.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 17-page count match catalogue asset 1964_5_807_823; every page was reviewed.

The source verifies Civil Appeal No. 63 of 1961, the stated bench, issues, reasoning and operative result.

No published or archived standalone AKHB note with this source hash, case identity and operative decision was found.

STATUTORY SCOPE

The decision classifies receipts under the mutually exclusive heads and allowance rules of the Indian Income Tax Act, 1922. It does not certify the treatment of a furnished or composite letting under present house-property, business or other-source provisions.

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.

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