

Commissioner of Income Tax, Kerala and Coimbatore v. L. W. Russel

Civil Appeal No. 220 of 1963

[1964] 7 SCR 569 | 1964-04-01

Historical salary prerequisite: employer contributions to a deferred-annuity trust were not taxable while the employee had only a contingent interest and no vested right to the money.

Indian Income Tax Act, 1922: section 7(1), Explanation 1 clause (v), and section 66(1) | Indian Income Tax Act, 1922: Chapters IX-A and IX-B, referenced in the historical prerequisite definition

3-judge bench | K. Subba Rao, J. | J. C. Shah, J. | S. M. Sikri, J.

Assessment years: 1956-57

Scheme-specific vesting

The result depended on the employer recovering its contribution if specified contingencies occurred and the employee having no vested right before superannuation.

No present-law clearance

Later statutory deeming provisions, contribution limits, approved-fund rules and receipt taxation were not examined.

Source boundary overlap

Physical pages 11-18 reproduce the separate J. Dalmia report, which is independently reviewed from asset 1964_7_579_586; it is not part of Russel's judicial reasons.

01 FACTS OF THE CASE

L. W. Russel worked for the English and Scottish Joint Co-operative Wholesale Society Ltd. Under a 1934 trust deed, a compulsory scheme funded deferred annuities for specified overseas European employees. The Society contributed one-third of the premium and the employee two-thirds; in 1956-57 the employer contributed Rs. 3,333 for Russel. The Income Tax Officer, first appellate authority and Tribunal treated it as taxable under section 7(1), but the Kerala High Court answered three referred questions for the employee (SCR pp.570-571; PDF pp.2-3).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The scheme used trustees as agents, funded policies for pensions at superannuation and provided different consequences for retirement, departure, dismissal, ill health or death. Before superannuation the employee could receive his own contributions but had no fixed right to the employer's share; depending on the contingency, that share could return to the employer or become available to the employee (SCR pp.572-574; PDF pp.4-6). Reading section 7(1) with Explanation 1(v), the Court held that an amount had to be paid, due or allowed in the sense of conferring a vested right. A contingent payment did not qualify before the contingency occurred (SCR pp.574-576; PDF pp.6-8). The Court distinguished a scheme treated as added salary and followed the vested-interest analysis of a conditional-fund decision (SCR pp.576-578; PDF pp.8-10).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court held that no interest in the employer's contribution had vested in Russel and approved the High Court's answers to all three questions. Revenue's appeal was dismissed (SCR p.578; PDF p.10).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee/respondent. The Rs. 3,333 employer contribution was not taxable as a perquisite allowed or due under the historical section 7(1) while his interest remained contingent (SCR p.578; PDF p.10).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: read the governing trust deed and rules before classifying an employer contribution. Identify who owns each contribution, when vesting occurs, what happens on resignation, dismissal, death and retirement, whether the employer can recover funds, and whether a statute taxes the contribution despite contingent rights. Do not generalise this scheme-specific 1922 Act decision to modern employee-benefit arrangements (based on SCR pp.572-578; PDF pp.4-10).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 18-page SCR report read and checked. The editorial headnote was distinguished from the judgment text and operative order.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 18-page count match catalogue asset 1964_7_569_586; the full extracted report and operative pages were reviewed.

The source verifies Civil Appeal No. 220 of 1963, the stated bench, issues, reasoning and operative result. No published AKHB note or archived reviewed record with this source hash, case identity and operative decision was found.

STATUTORY SCOPE

The decision applies the historical salary-perquisite language of section 7(1) of the 1922 Act to this trust deed and scheme. It does not determine the current taxation of employer pension, superannuation, insurance or employee-benefit contributions.

LATER TREATMENT

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

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