

Gillanders Arbuthnot and Co., Ltd. v. Commissioner of Income Tax, Calcutta

Civil Appeals Nos. 825-828 of 1963

[1964] 8 SCR 121 | 1964-05-01

Agency-termination compensation was revenue where losing one terminable distributorship did not impair a diversified agent's profit-making organisation; goodwill and non-compete allocations lacked evidence.

Indian Income Tax Act, 1922: section 66(1) and capital-versus-revenue receipt principles | Business Profits Tax: related chargeable accounting period ending 31 March 1949

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

Assessment years: 1948-49, 1949-50, 1950-51

No proven non-compete consideration

The proposed formal undertaking was never executed and no evidence supported allocating compensation to it or goodwill.

Fact-specific comparison

Although decided alongside Kettlewell Bullen, this case reached the opposite result because cancellation was an ordinary incident of this diversified agency business.

01 FACTS OF THE CASE

Gillanders conducted many agency, importing, trading and shipping businesses. Its longstanding explosives distributorship for Imperial Chemical Industries was terminable at will. The principal's March 1947 letter ended it from 1 April 1948 and offered payments based on post-transfer commissions over three years. It proposed a formal restraint against competing business, but no agreement was executed or even drafted for signature. Revenue assessed the receipts as income and related Business Profits Tax; the Tribunal and High Court rejected the capital-receipt claim (SCR pp.122-127; PDF pp.2-7).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court found no evidence of consideration paid for goodwill or an undertaking not to compete. The absence of a signed restraint was considered alongside the parties' conduct and failure to establish an implied bargain, rather than as a universal rule requiring writing (SCR pp.127-129; PDF pp.7-9). Applying Kettlewell Bullen, it held that acquisition and cancellation of individual agencies were ordinary incidents of Gillanders' diversified operations. Most magazine staff were financed by the principal; five officers transferred and six were absorbed elsewhere. Losing this agency did not substantially impair the trading organisation or destroy an enduring asset; the payments replaced lost trading profits (SCR pp.129-133; PDF pp.9-13).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court dismissed all four appeals with costs. It upheld treatment of the compensation as income and the rejection of any allocation to goodwill or a restrictive covenant on the evidentiary record (SCR p.133; PDF p.13, read with pp.127-129; PDF pp.7-9).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue. The terminated agency was a trading avenue within a continuing diversified business, and the compensation was not proved to be the price of an enduring capital asset (SCR pp.132-133; PDF pp.12-13).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: support any proposed allocation of a termination payment with the actual bargain, contemporaneous correspondence, valuation and enforceable obligations. Measure the effect on staff, facilities, business structure and replacement opportunities. A long agency relationship or a proposed non-compete clause alone does not establish capital consideration; present statutory rules must also be checked (based on SCR pp.127-133; PDF pp.7-13).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 13-page SCR report read and checked. The editorial headnote was distinguished from the judgment text and operative order.

[Open cited source rendition](#)

The source report contains 13 pages. Reporter headnotes and adjacent-case text are distinguished from the target judgment and operative order.

The primary source identifies Civil Appeals Nos. 825-828 of 1963, the stated bench, issues, reasoning and operative result.

STATUTORY SCOPE

This decision addresses historical income-tax and business-profits-tax assessments and the evidence supporting the character of the receipt. Its observations on goodwill and restrictive covenants are not a statement of their current statutory tax treatment.

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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