

Kettlewell Bullen and Co. v. Commissioner of Income Tax, Calcutta

Civil Appeal No. 226 of 1963

[1964] 8 SCR 93 | 1964-05-01

Termination compensation: surrender of an enduring managing-agency asset produced a capital receipt, notwithstanding continuation of the assessee's other agencies.

Indian Income Tax Act, 1922: sections 2(6C), 10, 12 and 66(1) | Indian Income Tax Act, 1922: section 10(5A), discussed as inapplicable to the assessment year

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

Assessment years: 1953-54

Not every agency termination is capital

The Court distinguished ordinary cancellation of trading contracts from surrender of an enduring income-producing asset.

Pre-amendment assessment

The result cannot be used as a general present-day exemption for termination compensation.

01 FACTS OF THE CASE

Kettlewell held Fort William Jute's managing agency under a 1925 agreement as well as five other agencies. Under a 1952 arrangement, Mugneeram Bangur & Co. acquired Kettlewell's shares, procured repayment of its advances and provided Rs. 3,50,000 through the principal company for relinquishment of the agency. Kettlewell resigned from 1 July 1952. The agency still had about five years to run and was capable of renewal. The appellate tax authorities regarded the receipt as capital, but the Calcutta High Court held it revenue (SCR pp.95-99; PDF pp.3-7).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the proposition that an object of acquiring managing agencies made them stock-in-trade: there was no evidence of a business of buying and selling agencies. In substance the arrangement transferred the benefit of enduring agency rights to the incoming group (SCR pp.100–103; PDF pp.8–11). Reviewing the authorities, it held that compensation for cancellation within ordinary trading operations is revenue if the trading structure and income source remain intact; cancellation impairing that structure or destroying an income source normally produces capital compensation. The label, voluntariness and mere continuation of other agencies are not conclusive. Section 10(5A)'s later deeming rule did not govern this year (SCR pp.104–121; PDF pp.12–29).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court answered the referred question in the negative and awarded the appellant its costs in the Supreme Court. The Rs. 3,50,000 compensated the surrender of an enduring capital asset and was not a revenue receipt assessable on the reference (SCR p.121; PDF p.29).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee. Continuing its remaining agencies did not alter the capital character of this particular surrender transaction (SCR p.121; PDF p.29).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: identify exactly what contractual asset or trading opportunity the recipient gives up. Record duration, renewal rights, termination terms, the actual business of acquiring or dealing in agencies, and the effect on the profit-making organisation. Apply any express statutory charging rule before relying on the capital-versus-revenue distinction; the judgment itself warns that legislation changed the historical treatment (based on SCR pp.100–106 and 115–121; PDF pp.8–14 and 23–29).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 29-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 29 pages. Reporter headnotes and adjacent-case text are distinguished from the target judgment and operative order.

The primary source identifies Civil Appeal No. 226 of 1963, the stated bench, issues, reasoning and operative result.

STATUTORY SCOPE

The decision concerns assessment year 1953-54. The Court expressly recorded that section 10(5A), effective from 1 April 1955, changed the treatment of specified termination payments but did not apply here. Current compensation and capital-gains provisions require separate review.

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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