

Alapati Venkataramiah v. Commissioner of Income-tax, Hyderabad

Civil Appeal No. 5 of 1964

[1965] 3 SCR 567 | 1965-03-29

Capital gains under section 12B: possession and book entries did not transfer title to immovable factory assets; only furniture was transferred before the statutory cut-off.

Indian Income-tax Act, 1922: sections 12B, 35 and 66 | Transfer of Property Act, 1882: section 53A

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

Assessment years: 1948-49

Mixed asset-specific result

The Court excluded the immovable assets and goodwill from the relevant period but held that furniture passed by delivery; the decision was not a complete exemption of the transaction.

Repealed and time-limited capital-gains provision

The holding turns on the historical wording and cut-off dates of section 12B of the 1922 Act and should not be transposed to current transfer provisions without fresh analysis.

01 FACTS OF THE CASE

The assessee, proprietor of Mohan Tile Works, agreed on 17 March 1948 to sell the factory, plant, machinery, furniture, stocks and goodwill to Mohan Industries Ltd. for Rs.2,00,000. Possession was delivered and reciprocal book entries were made in March 1948, but the company adopted the conditional agreement only on 16 March 1949; a registered deed for the site had been executed on 22 November 1948. For AY 1948-49 the tax authorities ultimately treated Rs.79,494 as capital gains, and the Andhra Pradesh High Court held that possession and the right to receive the price brought the transfer within section 12B.

Source: [Agreement, assets and referred question: SCR pp.568-572 / PDF pp.2-6](#); [Agreement adoption and transfer issue: SCR p.573 / PDF p.7](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read the instrument as a conditional agreement to sell that required adoption by the company. For section 12B, title had to pass by sale, exchange or effective transfer; mere possession of immovable property, even with reliance on section 53A, was not equivalent to conveyance, and book entries did not determine the transfer date. Machinery embedded in the earth, electrical fittings, and the buildings and site therefore did not pass before 1 April 1948. Stock was excluded from the statutory definition of capital asset. Furniture, however, could pass by delivery and did pass on 17 March 1948, while goodwill ordinarily followed transfer of the whole business and had not passed by the cut-off.

Source: [Effective conveyance, possession and book entries: SCR p.574 / PDF p.8](#); [Asset-by-asset treatment of stock, furniture and goodwill: SCR p.575 / PDF p.9](#)

03 JUDICIAL DECISION

The Court answered that Rs.79,494 was not wholly assessable as capital gains in AY 1948-49. Only the portion, if any, attributable to capital gain on furniture valued at Rs.18,805 was assessable. The appeal was allowed and, because the assessee had substantially succeeded, costs were awarded in the Supreme Court and High Court.

Source: [Qualified operative answer and costs: SCR p.575 / PDF p.9](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee substantially, but with a limited Revenue component. Capital gains on the immovable assets and goodwill were outside AY 1948-49; any gain on the furniture transferred by delivery remained assessable.

Source: [Mixed asset-specific outcome: SCR p.575 / PDF p.9](#)

05 AKHB REVIEW POINT

AKHB analysis: transfer timing must be tested separately for each asset and under the exact statutory wording then in force. In a historical section 12B file, reconcile the agreement, corporate adoption, possession, registration and accounting dates instead of treating any single event as conclusive. For a current matter, independently apply the Income-tax Act, 1961 definition of transfer, registration and property-law rules, and later binding authority.

Source: [AKHB analysis based on the effective-conveyance and asset-specific reasoning](#)

SOURCE & VERIFICATION

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

Full 9-page SCR report read and visually checked. The editorial headnote on PDF pp.1-2 was distinguished from Sikri J.'s unnumbered judgment beginning on PDF p.2 and continuing through the operative order on PDF p.9.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 9-page count match catalogue asset 1965_3_567_575; every page was read as extracted text and inspected as a rendered image.

The judicial text verifies Civil Appeal No.5 of 1964, the three-member bench, AY 1948-49, the asset-by-asset treatment and the qualified operative answer.

No published AKHB record or archived reviewed release matched this party identity, citation, case number or source asset.

STATUTORY SCOPE

This decision construes section 12B of the repealed Indian Income-tax Act, 1922 as it applied only to transfers after 31 March 1946 and before 1 April 1948. It does not establish the timing or scope of a transfer under the present Income-tax Act, 1961, including its expanded statutory definition of transfer.

LATER TREATMENT

Source checked 2026-10-10. Later treatment of this transfer-timing analysis and its interaction with the materially expanded transfer provisions of the Income-tax Act, 1961 has not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

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