

# Poona Electric Supply Co. Ltd. v. Commissioner of Income Tax, Bombay

Civil Appeals Nos. 633 and 634 of 1964

[1965] 3 SCR 818 | 1965-04-19

**Real business income: statutory consumer-rebate reserve was deductible because the amount returnable to consumers did not form part of the electricity licensee's real profits.**

Indian Income Tax Act, 1922: sections 10(1) and 10(2)(xv) | Electricity (Supply) Act, 1948: section 57(1) and Sixth Schedule paragraphs I-II | Indian Electricity Act, 1910: section 3(1)

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

Assessment years: 1953-54, 1954-55

## Section 10(2)(xv) left undecided

Relief was granted because the returnable consumer amounts were excluded in ascertaining real profits under section 10(1); the Court expressly found it unnecessary to decide the alternative expenditure deduction.

## Historical electricity regime

The result turns on the consumer-rebate obligation in the Electricity (Supply) Act, 1948 and does not make every statutory reserve deductible under current law.

## 01 FACTS OF THE CASE

Poona Electric distributed electricity under a government licence. The Electricity (Supply) Act, 1948 required a licensee to regulate charges by reference to a statutory reasonable return and to distribute or carry forward for consumers one-half of specified excess clear profit. For AYs 1953-54 and 1954-55 the company, which used mercantile accounting, credited Rs. 42,148 and Rs. 77,138 to its Consumers Benefit Reserve Account and claimed those sums in computing taxable business income. The Income Tax Officer and Appellate Assistant Commissioner rejected the claim; the Tribunal allowed it. The Bombay High Court answered Revenue's reference against the company, which appealed.

Source: [Business, assessment years, reserve amounts and reference history: SCR pp.819-820 / PDF pp.2-3](#); [Statutory consumer-rebate scheme: SCR p.821 / PDF p.4](#)

## 02 DISCUSSION BY THE HON'BLE COURT

The Court separated statutory clear profit, calculated under the electricity statute to control rates, from commercial profit for income-tax purposes. Section 10(1) taxed real business profits computed on commercial principles, not a regulatory measure labelled profit for a different purpose. Amounts compulsorily returnable to consumers were therefore comparable to excess collections returned to customers and did not form part of real profit. Reviewing authorities on application versus ascertainment of profit, the Court treated the inquiry as factual and commercial: an outgoing used to arrive at profit differs from a later distribution out of profit. Here the consumer-benefit sums were part of the excess collected but reserved for return to consumers. The Court therefore allowed them under section 10(1), without deciding whether section 10(2)(xv) independently applied. Because the company followed mercantile accounting and the liability accrued in the relevant accounting years, future payment did not defer the deduction.

Source: [Real profit distinguished from statutory clear profit: SCR p.822 / PDF p.5](#); [Commercial-profit principles and application to the reserve: SCR p.827 / PDF p.10](#); [Mercantile accrual and section 10\(2\)\(xv\) expressly left open: SCR p.828 / PDF p.11](#)

## 03 JUDICIAL DECISION

The Court answered the referred question affirmatively and in the assessee's favour, set aside the High Court's order and allowed both appeals with costs. The amounts credited to the Consumers Benefit Reserve Account had to be deducted under section 10(1) in computing the company's taxable business income for the two assessment years.

Source: [Holding, answer and operative allowance: SCR p.828 / PDF p.11](#)

## 04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee. The reserve amounts were excluded in determining real business profits under section 10(1), and the mercantile-system liability was recognised in the years of accrual. No ruling was made on the alternative section 10(2)(xv) ground.

Source: [Assessee's appeals allowed with costs: SCR p.828 / PDF p.11](#)

## 05 AKHB REVIEW POINT

AKHB analysis: when a regulated-business reserve is claimed, first identify the legal owner and destination of the amount, then distinguish the regulator's profit measure from commercial income and separate an amount excluded in computing real profit from an expenditure claimed after profit arises. Record the accounting method and the date the repayment obligation accrues. For a current file, independently test the present charging and deduction provisions, the governing regulatory scheme and later binding treatment rather than treating the historical real-income label as conclusive.

Source: [AKHB analysis based on the distinction between commercial and statutory profit](#)

## **SOURCE & VERIFICATION**

### Supreme Court Reports scan - public eSCR mirror

Full 11-page SCR report read and visually checked. The editorial headnote on PDF p.1 was distinguished from Subba Rao J.'s judgment beginning on PDF p.2 and continuing through PDF p.11.

### Open cited source rendition

Exact source bytes, SHA-256 and 11-page count match catalogue asset 1965\_3\_818\_828; every page was read as extracted text and inspected as a rendered image.

The judicial text verifies Civil Appeals Nos. 633 and 634 of 1964, the three-member bench, AYs 1953-54 and 1954-55, the mercantile-accounting premise and the limited section 10(1) holding.

No published AKHB record or archived reviewed release with this party identity, citation, case numbers or source asset was found; later records that discuss Poona Electric are not duplicates.

## **STATUTORY SCOPE**

The ruling applies section 10(1) of the repealed Indian Income Tax Act, 1922 to the consumer-rebate mechanism in the historical Electricity (Supply) Act, 1948. The Court did not decide the alternative section 10(2)(xv) claim. It is not current-law clearance for any modern regulatory reserve or deduction.

## **LATER TREATMENT**

Source checked 2026-10-10. Later judicial treatment, the current income-tax statute and the present electricity-regulation framework have not been comprehensively checked; no current-law or citator clearance is represented.

## **AI DISCLOSURE**

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