

Nalnikant Ambalal Mody v. Commissioner of Income-tax, Bombay

Civil Appeals Nos. 731-732 of 1964

[1966] Supp. SCR 295 | 1966-05-04

Historical cash-basis professional receipts: whether an advocate's outstanding fees received after he had completely ceased practice could be taxed as professional income or under the residuary head.

Indian Income-tax Act, 1922: sections 3, 4, 6, 10 and 12 | Income-tax Act, 1961: section 176(4) (later provision discussed in the dissent)

3-judge bench; majority judgment delivered by A. K. Sarkar, C.J. for himself and J. R. Mudholkar, J.; R. S. Bachawat, J. dissented. | A. K. Sarkar, C.J. | J. R. Mudholkar, J. | R. S. Bachawat, J.

Assessment years: 1959-60, 1960-61

Majority and dissent must be separated

The 2:1 majority held the receipts untaxable under the 1922 Act on these facts; Bachawat, J. would have taxed them under section 12.

Complete cessation and cash accounting were essential

The advocate had ceased practice entirely on elevation to the Bombay High Court and had consistently maintained cash-basis accounts.

Income character did not migrate between heads

The majority's point was not that the receipts lacked income character, but that professional income could not be moved to the residuary head merely because section 10 did not charge it in the receipt year.

Later provision prevents current-law generalisation

Section 176(4) of the 1961 Act was mentioned as a later response to the issue. The historical outcome must not be presented as present-law clearance.

01 FACTS OF THE CASE

The assessee practised as an advocate in Bombay until his elevation to the High Court on 1 March 1957, when he ceased practice. He kept cash-basis accounts. Fees for earlier professional work remained outstanding, and he received Rs.30,570 in calendar year 1958 and Rs.15,240 in 1959, relevant to assessment years 1959-60 and 1960-61. He included the receipts in his returns, but later sought revision under section 33A on the ground that they were not taxable. The Commissioner rejected the revisions, and the assessee appealed by special leave (SCR pp.295-297, 302-303; PDF pp.1-3, 8-9).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The majority treated the receipts as fruits of professional activity falling exclusively under the profession head in section 6. Because the assessee maintained cash accounts and carried on no profession during either receipt year, section 10 did not charge them. The mutually exclusive heads did not permit the same receipts to migrate to section 12 merely because they escaped charge under the computing provision corresponding to their true head. Their character did not change with the time of receipt or method of accounting. Bachawat, J. dissented: in his view income not assessable under a specific head could fall within the true residuary scope of section 12, and the later section 176(4) supported rather than displaced that construction of the old Act (SCR pp.297-301, 303-309; PDF pp.3-7, 9-15).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

By majority, the Court allowed the appeals and held that the outstanding professional receipts were not taxable under section 12; no order as to costs was made. Bachawat, J. would have dismissed the appeals (SCR pp.301, 309-310; PDF pp.7, 15-16).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee by a 2:1 majority under the 1922 Act. The post-cessation professional fees could not be taxed under either section 10 or the residuary section 12 on the facts and accounting method before the Court (SCR pp.301, 309-310; PDF pp.7, 15-16).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: classify a receipt by its substantive source before asking whether the corresponding historical computation provision charges it. Under the majority's 1922 Act analysis, failure of that computation did not authorise reassignment to the residuary head. The dissent and later section 176(4) make this a statute-specific historical decision, not a present-law proposition (based on SCR pp.297-301, 303-310; PDF pp.3-7, 9-16).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 16-page SCR report read and checked. The editorial headnote and adjacent-report boundary text were distinguished from the judicial opinion and operative order.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 16-page count match catalogue asset S_1966_1_295_310; every page was reviewed.

The source verifies Civil Appeals Nos. 731-732 of 1964, the stated bench, issues, reasoning and operative result.

No published or archived standalone AKHB note with this source hash, case identity and operative decision was found.

STATUTORY SCOPE

The majority applies the repealed Indian Income-tax Act, 1922 to cash-basis receipts for assessment years 1959-60 and 1960-61. The dissent noted that section 176(4) of the 1961 Act later expressly addressed receipts after discontinuance. This note does not state the current treatment of post-cessation professional receipts, and no comprehensive later-treatment clearance was undertaken.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.