

Ram Kumar Agarwalla and Brothers v. Commissioner of Income-Tax, Central, Calcutta

Civil Appeal No. 176 of 1966

[1967] 1 SCR 955 | 1966-10-26

Payment received by share brokers for services in securing a controlling interest was a business revenue receipt, not consideration for abstaining from competition or a casual exempt receipt.

Indian Income-tax Act, 1922: sections 4(3)(vii) and 66(1)

3-judge bench | J. C. Shah, J. | V. Ramaswami, J. | V. Bhargava, J.

Assessment years: 1947-48

Fact-specific receipt characterisation

The result turned on the Tribunal's evidentiary finding that the payment remunerated services in a trading venture, not a genuine covenant to abstain from business.

Historical exemption

Section 4(3)(vii) of the 1922 Act expressly excluded business receipts from its casual-and-non-recurring exemption; current law must be checked independently.

01 FACTS OF THE CASE

The assessee firm, carrying on business as share brokers, share dealers and paper merchants, joined an accountant and a solicitor in negotiations concerning the controlling interest in Swadeshi Cotton Mills Ltd. Mangtaram Jaipuria offered Rs.6 lakh if the group secured the interest for it, gave up competing claims and assigned any acquired interest. Jaipuria bought the shares for Rs.4.03 crore and paid Rs.6 lakh, of which the assessee received Rs.2 lakh. The assessee paid Rs.25,000 for services, initially credited Rs.1.75 lakh as brokerage, then revised its return for assessment year 1947-48 to exclude it. The Tribunal found the payment remunerated services in a venture in the nature of trade, and the Calcutta High Court upheld that finding.

Source: [Negotiations, payment, return treatment and Tribunal finding: SCR pp.956-958 / PDF pp.2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the argument that two Tribunal members had already made a concurrent non-compete finding; only the Accountant Member took that view, and the whole appeal went to the third member. The offer letter made remuneration for securing the controlling interest a primary object. The Appellate Assistant Commissioner's remand report, accepted by the Tribunal, supported that the payment was for services. The assessee's principal business, absence of proof of financing for a Rs.4 crore acquisition, and failure of the principal partner to testify further supported the finding that the group did not genuinely intend to buy the mills. The Rs.2 lakh therefore arose from business. Cases involving genuine payments to refrain from acting or importing were distinguished. Because section 4(3)(vii) expressly did not apply to receipts arising from business, the casual-and-non-recurring exemption was unavailable.

Source: [Evidentiary basis and services-versus-non-compete analysis: SCR pp.958-959 / PDF pp.4-5; Business-receipt exclusion from section 4\(3\)\(vii\): SCR p.960 / PDF p.6](#)

03 JUDICIAL DECISION

The Court held that the Tribunal's finding was supported by evidence and that the assessee received the payment for services rendered in the course of a trading venture. The amount was a revenue receipt arising from business and could not obtain the section 4(3)(vii) exemption. The appeal was dismissed with costs.

Source: [Revenue character, exemption rejection and dismissal: SCR pp.959-960 / PDF pp.5-6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Revenue. The assessee firm's appeal was dismissed and the business-receipt assessment stood; the ruling did not establish that every payment containing non-compete language is revenue.

Source: [Business nexus and operative dismissal: SCR p.960 / PDF p.6](#)

05 AKHB REVIEW POINT

AKHB analysis: for a services/non-compete characterisation dispute, evidence the payer's commercial object, the recipient's capacity and funding to compete, services actually rendered, accounting entry, payment allocation and witness testimony. Contract wording is important but not conclusive where the record shows remuneration for execution of a transaction. Apply current income-tax provisions and later restrictive-covenant jurisprudence before using this historical fact finding.

Source: [AKHB analysis based on the letter, financing evidence, services and accounting treatment](#)

SOURCE & VERIFICATION

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

Full 6-page SCR source file read. PDF p.1 is the editorial headnote; the unnumbered judicial text begins on PDF p.2 and concludes on PDF p.6. OCR page-number corruption on the scan does not change the printed citation range, SCR pp.955-960.

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Exact source bytes, SHA-256 and six-page count match catalogue asset 1967_1_955_960; every page was read.

The judicial text verifies Civil Appeal No. 176 of 1966, decision date 26 October 1966 and the three-member bench.

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STATUTORY SCOPE

This decision applies section 4(3)(vii) of the repealed Indian Income-tax Act, 1922 to a fact-specific 1946 transaction. Current business-income, capital-receipt and restrictive-covenant treatment has not been checked.

LATER TREATMENT

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

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