

Commissioner of Income-tax, Bombay v. Walchand & Co. (Pvt.) Ltd., Bombay

Civil Appeals Nos. 279 and 280 of 1966

[1967] 3 SCR 214 | 1967-03-17

Historical business expenditure: employee remuneration judged from the businessman's perspective; the Tribunal could not partially disallow it without evidence or reasons.

Indian Income-tax Act, 1922: sections 10(2)(xv) and 33(4)

3-judge bench | J. C. Shah, J. | S. M. Sikri, J. | V. Ramaswami, J.

Assessment years: 1953-54, 1954-55

No automatic allowance

The Court preserved Revenue's ability to test whether payment was real, made in the taxpayer's trading character, and wholly and exclusively for business. It rejected an unsupported substitution of the Tribunal's preferred remuneration.

01 FACTS OF THE CASE

Walchand acted as managing agent for nine public companies through three directors and three executive officers. Resolutions in 1952 and 1953 increased their remuneration after the managed companies expanded their activities. For AYs 1953-54 and 1954-55, the Income-tax Officer disallowed the increases because profits had not correspondingly increased; the Appellate Assistant Commissioner agreed. The Tribunal accepted that the officer could not run the business or fix salaries but nevertheless allowed only part of the increases and gave no reasons for the remaining disallowance. The Bombay High Court found no evidence supporting that partial rejection.

Source: [Remuneration, assessments and Tribunal order: SCR pp.215-216 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

The Tribunal, although not a court, exercised judicial power and as final fact-finder had to identify disputed issues, weigh evidence and give reasons; section 33(4) did not confer arbitrary power. Under section 10(2)(xv), Revenue could test whether payment was real, incurred by the assessee as trader and wholly and exclusively for business, but could not simply determine what remuneration should have been paid. Commercial expediency and reasonableness were judged from the businessman's viewpoint, considering scale, duties, aptitude and future expansion. A matching increase in profits was not a legal precondition. With evidence of increased work and no reasoned contrary finding, partial disallowance lacked support.

Source: [Tribunal-duty and commercial-expediency reasoning: SCR pp.217-218 / PDF pp.4-5](#)

03 JUDICIAL DECISION

The Court agreed that the Tribunal's partial disallowance was unsupported by evidence. Revenue's appeals were dismissed with costs and one hearing fee, leaving the High Court's answer for the assessee intact.

Source: [Decision and dismissal: SCR p.218 / PDF p.5](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee. The increased remuneration was not partially disallowed on the record before the Court. The judgment does not make every voluntary remuneration payment deductible without proof of business purpose.

Source: [Qualified outcome: SCR pp.217-218 / PDF pp.4-5](#)

05 AKHB REVIEW POINT

AKHB analysis: support remuneration deductions with contemporaneous resolutions, role descriptions, workload changes, comparable terms and proof of services. Challenge a disallowance that substitutes the authority's preferred salary without evidence, but separately test genuineness, business purpose and any applicable related-party rule. A Tribunal order should expose its evidentiary path and reasons.

Source: [AKHB analysis based on the commercial-expediency and reasons holdings](#)

SOURCE & VERIFICATION

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

Full 5-page SCR report read; editorial headnote on PDF p.1 was distinguished from the unnumbered judicial text beginning on PDF p.2.

[Open cited source rendition](#)

Exact source bytes and 5-page count match catalogue asset 1967_3_214_218.

The report verifies connected Civil Appeals Nos.279 and 280 of 1966; the catalogue lists only the first appeal.

The catalogue's retrospective 1967INSC67 identifier is not printed in the report and is not independently certified here.

STATUTORY SCOPE

This ruling applies section 10(2)(xv) and Tribunal jurisdiction under section 33(4) of the 1922 Act for AYs 1953-54 and 1954-55. Current deduction provisions and related-party limits require separate review.

LATER TREATMENT

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

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