

# Commissioner of Income-tax, Kerala v. Gemini Cashew Sales Corporation, Quilon

Civil Appeal No. 702 of 1966

[1967] 3 SCR 727 | 1967-04-20

**Historical business deduction: a provision for retrenchment compensation that remained contingent while the firm carried on business and arose only on transfer after dissolution was not deductible under section 10(1) or 10(2)(xv).**

Indian Income-tax Act, 1922: sections 10(1) and 10(2)(xv) | Industrial Disputes Act, 1947: sections 25F and 25FF

3-judge bench; unanimous judgment delivered by J. C. Shah, J. | J. C. Shah, J. | S. M. Sikri, J. | V. Ramaswami, J.

Assessment years: 1958-59

## Employee entitlement under section 25FF was left undecided

The Court did not decide whether the workmen actually became entitled to retrenchment compensation on transfer to Walter. It assumed no broader labour-law holding was needed because the claimed outgoing failed on tax-deductibility grounds.

## Contingent obligation distinguished from accrued liability

The Court did not reject every actuarial or estimated provision. It distinguished a present, enforceable obligation capable of commercial valuation from a liability that had no existence while the business continued.

## Transfer-triggered liability was not a trading outgoing

The claimed liability arose on transfer of the business after dissolution, not in carrying it on. That source was central to the rejection under both section 10(1) and section 10(2)(xv).

## Accounting label and legal character differ

The amount was entered under 'Gratuity payable to workers', while the Tribunal and Court analysed the asserted liability as retrenchment compensation under section 25FF. The note preserves both descriptions without equating every gratuity provision with the statutory issue decided.

## 01 FACTS OF THE CASE

Walter and Ramasubramony conducted a cashew business as Gemini Cashew Sales Corporation. Ramasubramony died on 24 August 1957, dissolving the partnership, and Walter continued the business on his own. Employees' services and terms were not interrupted, but Walter had not expressly agreed to assume section 25FF compensation liability. In settling the firm's accounts to dissolution, it claimed Rs. 1,41,506 recorded as 'Gratuity payable to workers' for assessment year 1958-59. The Income-tax Officer and Appellate Assistant Commissioner rejected the deduction; the Tribunal and Kerala High Court allowed it on the view that dissolution and transfer had crystallised retrenchment compensation (SCR pp.728-729; PDF pp.2-3).

Source: [Primary judgment: facts](#)

## 02 DISCUSSION BY THE HON'BLE COURT

The Court described section 25FF liability as arising on transfer of ownership or management, subject to the proviso, and not before. Until transfer or termination, workmen might leave, die or retire and the asserted obligation remained contingent. The Court expressly declined to decide whether the workmen in this case actually became entitled under section 25FF (SCR pp.730-731; PDF pp.4-5). A commercially valued future payment may be deductible where a definite present obligation already exists; Calcutta Company illustrated that situation. Here, by contrast, the obligation had no existence during business operations and arose, if at all, from transfer after dissolution. It was neither a revenue liability under section 10(1) nor expenditure laid out wholly and exclusively for carrying on the business under section 10(2)(xv). Indian Metal and Standard Mills supported treatment of such a provision as contingent rather than present (SCR pp.731-735; PDF pp.5-9).

Source: [Primary judgment: discussion](#)

## 03 JUDICIAL DECISION

The Court answered the reference question in the negative, allowed the Revenue's appeal, set aside the High Court's order and awarded the Commissioner costs (SCR p.735; PDF p.9).

Source: [Primary judgment: decision](#)

## 04 OUTCOME / IN WHOSE FAVOUR

In favour of the Revenue. The Rs. 1,41,506 provision was disallowed; the Court did not rule on the workmen's ultimate section 25FF entitlement (SCR pp.731, 735; PDF pp.5, 9).

Source: [Primary judgment: outcome](#)

## 05 AKHB REVIEW POINT

AKHB analysis: for a deduction based on future employee obligations, identify the exact event that creates an enforceable liability, whether that event occurred before the accounting cut-off, whether the amount can be commercially valued, and whether the obligation arose in carrying on the business or only on its cessation or transfer. Keep the tax accrual analysis separate from any unresolved labour-law entitlement, and verify the current statutory framework before use (based on SCR pp.731-735; PDF pp.5-9).

Source: [Primary judgment: reviewPoint](#)

## SOURCE & VERIFICATION

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

Full 9-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 9-page count match catalogue asset 1967\_3\_727\_735; every page was reviewed.

The source verifies Civil Appeal No. 702 of 1966, 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 ruling applies former section 10 of the repealed Income-tax Act, 1922 to a 1957 partnership dissolution and then-existing sections 25F and 25FF of the Industrial Disputes Act. It does not clear present deduction, employee-benefit provisioning or business-transfer treatment. No current-law or 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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