

Commissioner of Income-tax, Gujarat, Ahmedabad v. Tejaji Farasram Kharawalla Ltd.

Civil Appeal No. 2162 of 1966

[1968] 1 SCR 37 | 1967-07-19

Pre-1955 section 4(3)(vi) expense allowance: only the portion wholly and necessarily incurred, or properly allocated to be incurred, in performing the selling agency was exempt; an unspent surplus retained the character of additional remuneration and was taxable.

Indian Income-tax Act, 1922: section 4(3)(vi) | Finance Act, 1955: amendment to section 4(3)(vi)

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

Assessment years: 1949-50

Purpose alone did not exempt the receipt

A label or grant purpose for contingency expenses was insufficient. Exemption attached to the amount actually devoted, or properly allocable, to expenses wholly and necessarily incurred in performing the duties.

Unspent surplus became remuneration

Even if the principal could not demand a refund, the retained surplus lost the character of an expense allowance and was treated for income-tax purposes as additional remuneration.

Incurred included future expenditure

The pre-1955 word incurred covered incurred or to be incurred. For a grant spanning more than one accounting year, the officer had to allocate the allowance to the relevant year before comparing it with expenditure.

Employment point was narrow

The selling agent's employment for profit was not disputed in the Supreme Court. The Court therefore found it unnecessary to examine the High Court's separate analysis of office.

Printed arithmetic mismatch

SCR p.38/PDF p.2 prints receipts of Rs.1,90,538, expenditure of Rs.1,32,512 and a difference of Rs.58,025. The first two figures subtract to Rs.58,026; this note preserves the report's stated figures and does not invent a reconciliation.

01 FACTS OF THE CASE

Under a 1928 agreement, Ciba (India) Ltd. appointed Tejaji Farasram Kharawalla as selling agent for specified dyes and dye-stuffs at 12.5 per cent commission, inclusive of office, godown, rebate and contingency charges. A 1935 modification split that amount into 7.5 per cent selling commission and 5 per cent compensation for contingency expenses such as payments to dyeing masters and agents. The agency was assigned to the respondent company in 1947. For assessment year 1949-50, the officer taxed the report's stated Rs.58,025 difference between Rs.1,90,538 received as the 5 per cent component and Rs.1,32,512 spent. The Tribunal and later the Gujarat High Court treated the full 5 per cent as exempt (SCR pp.38-40; PDF pp.2-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 4(3)(vi) covered expenses incurred or to be incurred, but the stated purpose of the grant was not by itself determinative. The exemption protected money received not for the grantee's own benefit but to meet expenses wholly and necessarily connected with the duties. Once the expenditure need was met, any surplus retained by the agent no longer bore that character and became additional remuneration even if no refund could be demanded. The Court disapproved contrary reasoning in the earlier Tejaji Farasram decision and Sharma & Company (SCR pp.40-41; PDF pp.4-5). A multi-year grant was not automatically taxable after deducting only current-year spending: the officer first had to determine the allowance allocable to the accounting year, and only the difference from expenditure for that year was taxable. The Court said this allocation principle survived the 1955 amendment (SCR pp.41-42; PDF pp.5-6).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Supreme Court allowed Revenue's appeal, discharged the High Court's supplementary answer and held that only the portion of the 5 per cent commission wholly and necessarily incurred in the year of account in performing the selling-agent duties was exempt under section 4(3)(vi). It made no order as to costs (SCR p.42; PDF p.6).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue on the exemption's extent. The entire 5 per cent component was not exempt; only qualifying year-specific expenditure escaped tax (SCR pp.40-42; PDF pp.4-6).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: for a reimbursement or expense-allowance claim, preserve the grant terms, covered period, duty nexus, expenditure ledger and any balance retained. Separate the amount allocable to the relevant year from actual qualifying expenditure; a contractual description cannot by itself exempt a surplus. Apply only the statutory version governing the year under review (based on SCR pp.40-42; PDF pp.4-6).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 6-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 6-page count match catalogue asset 1968_1_37_42; every page was reviewed.

The source verifies Civil Appeal No. 2162 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 judgment construes section 4(3)(vi) of the repealed Indian Income-tax Act, 1922 as it stood for assessment year 1949-50 and separately comments on its 1955 amendment. It does not determine current employee-allowance, agency-remuneration or business-deduction law. No current-law or 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.

PROFESSIONAL DISCLAIMER

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.