

Commissioner of Income-tax, Bombay v. Ciba of India Ltd.

Civil Appeals Nos. 9 to 16 of 1967

[1968] 2 SCR 696 | 1967-12-15

Historical technical-assistance deductions: recurring payments for limited, non-exclusive access to a foreign parent's pharmaceutical know-how, patents and trademarks were revenue expenditure under section 10(2)(xv), though not the assessee's own scientific-research expenditure under section 10(2)(xii); reimbursement of unrelated patent-litigation costs remained disallowed.

Indian Income-tax Act, 1922: sections 10(2)(xii), 10(2)(xv) and 66(1)

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

Assessment years: 1949-50, 1950-51, 1951-52, 1952-53, 1953-54

Two distinct deductions

The recurring technical-assistance payment was allowed under section 10(2)(xv) but rejected under section 10(2)(xii); the separate patent-litigation reimbursement was disallowed entirely.

No acquisition of enduring asset on these terms

The revenue result rested on the five-year, terminable, restricted and non-exclusive arrangement, continuing research access, return obligations and sales-linked recurring payments.

Paying another's research was insufficient

Reimbursement of a foreign parent's research expense did not become the assessee's own scientific-research expenditure unless the research was carried on by or for the assessee within section 10(2)(xii).

Patent-suit nexus was not proved

The May and Baker patents and the Swiss company's litigation obligation were not shown to have devolved on Ciba of India; benefit or commercial sympathy alone did not establish deductibility.

01 FACTS OF THE CASE

Ciba of India, an Indian pharmaceutical subsidiary, agreed with Ciba Ltd., Basle to receive continuing research results, manufacturing processes, technical material and limited patent and trademark licences. The five-year arrangement was terminable, restricted disclosure and assignment, required return of material on termination and charged recurring percentages of net sales. For assessment years 1949-50 to 1953-54, Ciba claimed these payments under section 10(2)(xii) or alternatively section 10(2)(xv). A second question concerned its reimbursement to the Swiss company of part of May and Baker's costs in a 1946 patent-infringement suit. The High Court allowed the first payment only under section 10(2)(xv) and disallowed the second; Revenue and the assessee cross-appealed (SCR pp.696-702, 705-707; PDF pp.1-7, 10-12).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 10(2)(xii) required scientific-research expenditure laid out by the assessee; merely recouping another's research costs, absent research carried on by or for the assessee, did not satisfy it (SCR pp.701-702; PDF pp.6-7). Section 10(2)(xv) nevertheless applied because Ciba obtained limited access, not ownership of the Swiss company's technical knowledge or an enduring business asset. The five-year and terminable term, continuing research supply, third-party licensing possibility, confidentiality and return restrictions, and sales-linked recurring consideration showed a right to use know-how in the existing business rather than an outright transfer (SCR pp.702-705; PDF pp.7-10). The separate litigation reimbursement lacked the required nexus: the May and Baker patent rights were not included in Ciba's licences, the suit predated Ciba's registration, and no evidence showed that the Swiss company's cost obligation passed through Ciba (India) Ltd. to the assessee (SCR pp.705-708; PDF pp.10-13).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court affirmed both High Court answers. It dismissed Revenue's appeals against allowance of the technical-assistance payments under section 10(2)(xv), while preserving their rejection under section 10(2)(xii), and dismissed the assessee's appeals seeking deduction of the May and Baker litigation reimbursement. Both sets failed with costs and one hearing fee in each set (SCR pp.702-708; PDF pp.7-13).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

Mixed. Ciba of India retained a revenue deduction for the recurring know-how payments under section 10(2)(xv), but failed on the scientific-research limb and on the separate patent-suit cost. Revenue also failed to recharacterise the know-how payments as capital (SCR pp.702-708; PDF pp.7-13).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: classify a know-how payment from the actual bundle of rights and obligations-duration, exclusivity, sublicensing, confidentiality, return or cessation terms, continuing updates, consideration formula and whether ownership passes. Separately prove the business nexus and legal incidence of any reimbursement; do not merge another entity's research or litigation obligation into the licence payment. Apply the present tax, transfer-pricing, withholding and intellectual-property rules independently (based on SCR pp.701-708; PDF pp.6-13).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 13-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 13-page count match catalogue asset 1968_2_696_708; every page was reviewed.

The source verifies Civil Appeals Nos. 9 to 16 of 1967, 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 concerns assessment years 1949-50 to 1953-54 under the Indian Income-tax Act, 1922 and fact-specific agreements executed in 1947-49. It does not certify the treatment of modern know-how, royalty, transfer-pricing, withholding, research-and-development or intellectual-property payments. 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.

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