

Commissioner of Income-tax, U.P. v. Jagannath Mahadeo Prasad, etc.

Civil Appeals Nos. 1761 and 1762 of 1967

[1969] 1 SCR 537 | 1968-08-02

Historical speculative-loss ring-fencing: the first proviso to section 24(1), read with Explanation 1, prevented a speculative-business loss from reducing non-speculative business profits and treated qualifying speculation as a distinct business for the stated computation.

Indian Income-tax Act, 1922: sections 6, 10, 23 and section 24(1), first proviso and Explanation 1

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

Assessment years: 1953-54

Speculation loss was ring-fenced

The loss could be recognised only to the extent of profits from another business consisting of speculative transactions; it could not reduce ordinary business profits merely because both fell under the broad business-income head.

Prior Supreme Court statement was ratio

The Court rejected the High Court's view that Kantilal Nathu Chand was obiter because applicability of the proviso directly arose there for the identified assessment years.

Companion appeal details are limited

The report states that Civil Appeal No.1762 of 1967 involved the same common question with somewhat different wording but narrates the detailed facts only for Civil Appeal No.1761 of 1967.

Historical numbering and statutory language

The proviso's numbering changed after 1954 and the holding is tied to the 1922 Act's computation scheme. Do not map it automatically to later definitions, exceptions or set-off provisions.

01 FACTS OF THE CASE

The detailed facts concern Civil Appeal No.1761 of 1967 and assessment year 1953-54. The individual assessee earned property, investment, commission-agency and partnership income. In computing commission-agency profit he claimed a partnership-loss share; before the first appellate authority the share loss was stated as Rs.13,232, including Rs.8,669 from speculative silver dealings. After excluding Rs.1,415 speculation profit, the authority carried forward net speculation loss of Rs.7,254 for set-off against future speculation income. The assessee instead sought set-off against other business profit. The Tribunal rejected that claim, but the Allahabad High Court treated the relevant observations in Kantilal Nathu Chand as obiter and ruled for the assessee. Civil Appeal No.1762 raised the same common issue in somewhat different wording (SCR pp.537-539; PDF pp.1-3).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 24(1) generally allowed loss under one head to be set against income under another, but its speculation proviso was a substantive computation restriction: loss from speculative transactions constituting a business was not to be taken into account except against profit from another speculative business. Explanation 1 reinforced that such speculation was deemed distinct and separate from other business (SCR pp.539-542; PDF pp.3-6). Kantilal Nathu Chand had directly decided the proviso's application for its assessment years; its statement was therefore not obiter. Given the unequivocal statutory language, the Court considered it unnecessary to debate whether the provision technically functioned as a proviso or as a substantive rule (SCR pp.540-542; PDF pp.4-6).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court answered the referred questions in both appeals in the negative, against the assessees and for the Department. Speculative-business losses could not be set off against profits of other business under the governing proviso. Both appeals were allowed with costs and one hearing fee (SCR p.542; PDF p.6).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Commissioner/Revenue. The claimed cross-set-off of speculative loss against non-speculative business profit was disallowed in both appeals (SCR pp.541-542; PDF pp.5-6).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: classify each loss by the exact statutory definition for the relevant year before netting within a broad income head. Maintain separate ledgers for speculative and non-speculative activities, identify eligible same-category profits and preserve carry-forward computations. Use current definitions, exceptions and time limits independently; this 1922 Act ruling is historical and supplies no current-law clearance (based on SCR pp.539-542; PDF pp.3-6).

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 1969_1_537_542; every page was reviewed.

The source verifies Civil Appeals Nos. 1761 and 1762 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 decision applies the speculative-loss proviso and Explanation 1 in section 24(1) of the repealed Indian Income-tax Act, 1922. The report explains that the proviso had been the second proviso at the material time and became the first after the 1954 Jammu and Kashmir extension legislation. It does not establish current set-off or carry-forward rules. 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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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.