

H. L. Sud, Income-tax Officer, Bombay v. Tata Engineering & Locomotive Co. Ltd., Bombay

Civil Appeals Nos. 688 and 689 of 1968

[1969] 2 SCR 21 | 1968-09-06

Historical non-resident statutory agency and advance tax: a section 43 appointment was assessment-year specific, so earlier-year orders could not support a section 18A advance-tax demand for 1962-63 without a fresh notice, hearing and agent appointment for that year.

Indian Income-tax Act, 1922: sections 18A, 29, 42 and 43 | Constitution of India: Article 226

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

Assessment years: 1962-63

Appointment was year-specific

The phrase 'for all purposes' extended an appointment to all stages of the particular assessment-liability, quantification and recovery-not to a different assessment year.

Fresh hearing mattered

A person who could not resist agency in one year might do so on changed facts in another; section 43 therefore required a new notice and opportunity for each year's appointment.

No ruling that collaboration itself creates agency

The two German collaborations supplied context only. The Court decided the validity of the 1962-63 demand in the absence of a fresh statutory appointment.

Repealed provisions

Sections 18A, 42 and 43 belonged to the 1922 Act. Modern representative-assessment and advance-tax provisions require separate textual and precedential analysis.

01 FACTS OF THE CASE

TELCO manufactured vehicles and locomotives in collaboration with Daimler Benz A.G. and Krauss Maffei A.G. For assessment years 1955-56 through 1961-62, the Income-tax Officer served section 43 notices and formally appointed TELCO statutory agent of the German firms. For 1962-63 he made no such notice or order, yet in September 1961 issued section 29 demands with section 18A(1) orders seeking advance tax of Rs.90,833.29 for Krauss and Rs.6,32,629.62 for Daimler from TELCO as agent. TELCO denied liability; after the Commissioner rejected its representation, the Bombay High Court quashed the demands and restrained enforcement, and the Income-tax Officer appealed (SCR pp.22-23; PDF pp.2-3).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Sections 18A, 42 and 43 imposed advance-tax and statutory-agent liabilities within the 1922 Act's annual assessment scheme. A section 43 appointment could be used 'for all purposes' of the assessment year for which it was made, including imposing, quantifying and recovering liability, but could not carry forward vicarious liability into another assessment year. Although advance tax was charged during the current financial year, it related to the subsequent assessment year's liability (SCR pp.23-27; PDF pp.3-7). There was no section 43 notice, hearing opportunity or formal appointment of TELCO as agent for 1962-63. Because circumstances could change and allow a person to resist agency in a later year, notice and appointment were required afresh for each assessment year (SCR pp.27-28; PDF pp.7-8).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court held the 1962-63 demands illegal and ultra vires because TELCO had not been appointed statutory agent for that assessment year. It affirmed the Bombay High Court's certiorari, dismissed both appeals with costs and directed one set of hearing fee (SCR p.28; PDF p.8).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Tata Engineering & Locomotive Co. Ltd./respondent. The prior-year agent appointments could not support the challenged 1962-63 advance-tax demands (SCR pp.27-28; PDF pp.7-8).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: before imposing representative or vicarious tax liability, match each notice, hearing and appointment order to the exact taxpayer, non-resident, income stream and assessment year, then link the demand to that valid appointment. Do not assume a prior-year status automatically continues where the statute makes the proceeding annual. The present-day result must be tested against the current provisions and later case law; this 1922 Act ruling supplies no current-law clearance (based on SCR pp.27-28; PDF pp.7-8).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 8-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 8-page count match catalogue asset 1969_2_21_28; every page was reviewed.

The source verifies Civil Appeals Nos. 688 and 689 of 1968, 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 construes the annual assessment, statutory-agent and advance-tax provisions of the repealed Indian Income-tax Act, 1922. It does not establish the procedure or liability under current non-resident representative-assessee, withholding, advance-tax or recovery provisions. 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.