

New Savan Sugar & Gur Refining Co. Ltd. v. Commissioner of Income-tax, Calcutta

Civil Appeal No. 1593 of 1968

[1969] 3 SCR 761 | 1969-02-19

Historical head-of-income and allowance classification: a long lease that put the entire sugar factory and machinery out of the assessee's business produced income from other sources under section 12, and sections 10(2)(vi-a) and (vi-b) could not be inserted by implication into section 12(3) or (4).

Indian Income-tax Act, 1922: sections 10(1), 10(2)(vi), 10(2)(vi-a), 10(2)(vi-b), 12(1), 12(3), 12(4) and 66(1) | Taxation Laws (Extension to Merged States and Amendment) Act, 1949 | Finance Act, 1955

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

Assessment years: 1955-56

Fact-specific business-intention inquiry

The Court stressed that no universal rule governed every letting. Its conclusion rested on the whole lease, including the transfer of the entire factory and machinery, the long renewable term, minimum royalty and the lessor's withdrawal from production.

Royalty measure did not control character

Sugar and molasses output measured the payment, but did not create a direct nexus between the lessor's receipt and a business carried on by it.

No judicial insertion of allowances

The refusal to import clauses (vi-a) and (vi-b) into section 12(3) and (4) turned on the historical text and distinct scheme; it is not a general proposition about every later depreciation or investment allowance.

Complete source boundary

All 12 PDF pages belong to this report, from its heading and headnote on PDF page 1 through the dismissal order on PDF page 12; no adjacent judgment text was included.

01 FACTS OF THE CASE

New Savan Sugar & Gur Refining Co. Ltd. had carried on sugarcane crushing and gur refining. Its managing agents anticipated losses from industry conditions and proposed leasing the undertaking as a running concern. A 15 March 1948 indenture operated retrospectively from 1 June 1945 for five years, with three potential five-year continuations and a shareholder-based termination option that was never exercised. Standard Refinery & Distillery Ltd. obtained the factory, premises and existing machinery, could add and later remove its own machinery, bore operating expenses and received the manufactured goods. Royalty was calculated by sugar output and molasses sold, subject to a minimum Rs.65,000 annually. For AY 1955-56 the assessee claimed business-income treatment under section 10 plus additional depreciation and development rebate. The officer, AAC, Tribunal and High Court treated the receipts under section 12 and denied the two additional allowances (SCR pp.763-764; PDF pp.3-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 10 required profits or gains of a business actually carried on by the assessee. Reading the lease as a whole, the Court found an intention to part with the entire factory and machinery and earn in the capacity of owner, rather than continue commercial exploitation itself. The lessee controlled production, while the minimum royalty and absence of a direct nexus showed that output was only a measure of rent. Temporary or partial letting cases such as Shri Lakshmi Silk Mills did not govern this long lease of the whole undertaking, and the Court repeated that each case depends on its own facts (SCR pp.767-771; PDF pp.7-11). Section 12(3) and (4) expressly incorporated only specified section 10(2) allowances. Clause (vi-a), added in 1949, and clause (vi-b), added in 1955, created distinct schemes and were not ancillary parts of clause (vi). Parliament had not added them to section 12, and the Court could not cure that omission by implication (SCR pp.771-772; PDF pp.11-12).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court affirmed the Calcutta High Court. The lease receipts were taxable as income from other sources under section 12, not business profits under section 10, and the assessee was not entitled to additional depreciation or development rebate under clauses (vi-a) and (vi-b). Civil Appeal No. 1593 of 1968 was dismissed with costs (SCR p.772; PDF p.12).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Commissioner of Income-tax/respondent. Both the head-of-income claim and the additional-allowance claim failed, and the assessee's appeal was dismissed with costs (SCR p.772; PDF p.12).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: classify a historical letting by reconstructing the commercial arrangement, not by its label or payment formula. Check whether the assessee retained an operating role, whether the whole undertaking or only an idle asset was let, the duration and renewal structure, allocation of production and operating costs, and whether the statute expressly carries the claimed allowance into the applicable head. A court cannot add an omitted allowance merely because it appears related to one the statute does include (based on SCR pp.767-772; PDF pp.7-12).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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Full 12-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 12-page count match catalogue asset 1969_3_761_772; every page was reviewed.

The source verifies Civil Appeal No. 1593 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 applies the repealed Indian Income-tax Act, 1922, including time-limited additional-depreciation and development-rebate clauses. It does not determine classification or allowances under the Income-tax Act, 1961 or later legislation. No comprehensive later-treatment or current-law 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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