

Commissioner of Income-tax, Calcutta v. Birla Bros. (P) Ltd.

Civil Appeals Nos. 2380 and 2381 of 1966

[1971] 1 SCR 357 | 1970-04-23

Managing agent: guarantee payment for the managed company's selling agent did not qualify as a trading bad debt on the proved facts.

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

3-judge bench | J. C. Shah, J. | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: Assessment year not expressly stated; accounting year 31 October 1951 to 18 October 1952

Historical statutory scope

The decision concerns the trading-debt conditions of section 10(2)(xi) of the repealed 1922 Act. It is fact-specific and does not establish that every commercial guarantee payment is non-deductible.

01 FACTS OF THE CASE

The assessee carried on banking, financing and managing-agency business. Starch Products Ltd., a managed company, had appointed U.P. Sales Corporation Ltd. as selling agent. The assessee guaranteed a bank loan to that selling agent and paid Rs. 5,60,199 when it defaulted. After the selling agent entered liquidation, the assessee wrote off the amount and claimed a bad debt. The assessing and first appellate authorities rejected the claim, but the Tribunal and High Court accepted an indirect business-benefit rationale.

Source: [SCR pp. 358-361](#) / [PDF pp. 2-5](#)

02 DISCUSSION BY THE HON'BLE COURT

A debt under section 10(2)(xi) must arise in the course and as a result of the assessee's own business; the connection cannot be too remote. The Court distinguished *Essen Private Ltd.*, where the managing-agency arrangements supported financing and guaranteeing the managed company itself. Here neither the memorandum nor the managing-agency agreement established that guaranteeing the selling agent's loan formed part of the assessee's business. No custom, statutory duty or contractual business obligation supplied the missing connection. The supposed indirect advantage was insufficient on this record.

Source: [SCR pp. 361-363](#) / [PDF pp. 5-7](#)

03 JUDICIAL DECISION

The appeals were allowed with costs, with one hearing fee. The High Court judgment was set aside and the referred deduction question was answered in the negative, against the assessee. The Court recorded that the claim was confined to section 10(2)(xi), and no claim was advanced under section 10(2)(xv).

Source: [SCR pp. 362-363 / PDF pp. 6-7](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue succeeded in disallowing this Rs. 5,60,199 bad-debt claim. The result concerns the proved relationship between this guarantor, its managed company and the separate selling agent; it is not a universal prohibition on deduction of guarantee losses.

Source: [SCR pp. 362-363 / PDF pp. 6-7](#)

05 AKHB REVIEW POINT

AKHB analysis: document the guarantee's connection with the taxpayer's own business, the relevant agreements, customary obligations, financing activity and recoverability. A payment and write-off alone do not establish the statutory character of a trading debt. Assess any alternative deduction independently under the applicable statutory version; this decision did not adjudicate an independently pleaded expenditure claim.

Source: [AKHB analysis based on SCR pp. 361-363 / PDF pp. 5-7](#)

SOURCE & VERIFICATION

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Full 7-page SCR report read, separating editorial headnote from judicial text.

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Full source read; original bytes match catalogue SHA-256. Judicial text is unnumbered, so SCR and PDF page pinpoints are used.

The editorial headnote mentions special leave, but the judicial opening states that the appeals were by certificate; the judicial text is followed.

STATUTORY SCOPE

The decision concerns the trading-debt conditions of section 10(2)(xi) of the repealed 1922 Act. It is fact-specific and does not establish that every commercial guarantee payment is non-deductible.

LATER TREATMENT

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