

Produce Exchange Corporation Ltd. v. Commissioner of Income Tax

Civil Appeals Nos. 2538 and 2539 of 1966

[1971] 1 SCR 382 | 1970-04-27

Carry-forward of share-trading loss: organisational unity establishes the same business under the pre-1955 section 24(2).

Indian Income-tax Act, 1922: section 24(2), before the 1955 amendment; section 66(2)

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

Assessment years: 1950-51, 1951-52, 1952-53

Historical statutory scope

The Court expressly applied section 24(2) as it stood before the 1955 amendment. Present carry-forward, speculation and category-specific loss restrictions require independent statutory analysis.

01 FACTS OF THE CASE

The company dealt in commodities, stocks and shares and incurred a share-sale loss of Rs.3,71,700 in calendar 1949. In the ensuing assessment proceedings the controversy concerned whether share dealings and other commodity and commission activities constituted the same business for carrying forward and setting off the loss. The Tribunal found complete unity of control and allowed the claim. The High Court instead treated the different nature of the commodities as decisive.

Source: [SCR pp. 383-385](#) / [PDF pp. 2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

Applying Prithvi Insurance and the interconnection, interlacing, interdependence and unity test, the Court relied on common management, trading organisation, employees, administration, funds and premises. Different commodities did not make the activities separate businesses. The Court rejected the High Court's proposed decisive test based on the nature of the two businesses, without deciding the ultimate correctness of the earlier Shree Ramesh Cotton Mills result. The evidence amply supported the Tribunal; Revenue's proposed further reference question could not change the result.

Source: [SCR pp. 385-387](#) / [PDF pp. 4-6](#)

03 JUDICIAL DECISION

The referred question was answered affirmatively. The appeals were allowed, with the Commissioner directed to pay the company's costs in the Supreme Court and High Court, subject to one hearing fee.

Source: [SCR p. 387 / PDF p. 6](#)

04 OUTCOME / IN WHOSE FAVOUR

The assessee succeeded: its share business and other businesses constituted the same business under the then applicable provision, supporting the claimed set-off.

Source: [SCR pp. 386-387 / PDF pp. 5-6](#)

05 AKHB REVIEW POINT

AKHB analysis: document actual operational unity through management, staff, finance, accounts and premises. A common owner alone is not the complete analysis, and different products alone do not settle it. Keep this pre-1955 ruling distinct from present statutory restrictions on particular loss categories and from the later Standard Refinery decision applying related principles.

Source: [AKHB analysis based on SCR pp. 386-387 / PDF pp. 5-6](#)

SOURCE & VERIFICATION

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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 running header on SCR p.383 incorrectly names CIT v. Murugappan. The opening title, parties, appeal numbers and continuous judicial text identify Produce Exchange Corporation; the incorrect running header has not been used as case identity.

STATUTORY SCOPE

The Court expressly applied section 24(2) as it stood before the 1955 amendment. Present carry-forward, speculation and category-specific loss restrictions require independent statutory analysis.

LATER TREATMENT

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