

Commissioner of Income Tax, Bombay v. Mysore Spinning & Mfg. Co. Ltd.

Civil Appeal No. 1760 of 1967

[1971] 1 SCR 468 | 1970-04-30

Transfer of private provident-fund accumulations to the common statutory fund: historical business deduction and section 58K.

Indian Income-tax Act, 1922: sections 58K and 10(2)(xv) | Employees Provident Funds Act, 1952: section 17 and statutory Scheme

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

Assessment years: 1957-58

Historical statutory scope

This applies sections 58K and 10(2)(xv) of the repealed 1922 Act to a particular statutory transfer. It does not resolve present employer/employee contribution timing or deduction restrictions under the 1961 Act.

01 FACTS OF THE CASE

The textile company maintained two unrecognised private provident funds. After cancellation of its provisional statutory exemption, the Provident Fund Commissioner required transfer of the accumulations to the Employees Provident Fund. The company claimed Rs.3,01,772-1-7, representing its contributions and associated interest accumulated up to 31 October 1952, in AY 1957-58. The tax authorities treated the transfer as capital expenditure under section 58K, but the High Court allowed the claim.

Source: [SCR pp. 469-471](#) / [PDF pp. 2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 58K(1) required an employer-maintained fund, transfer to trustees, and a transfer in trust for the employees participating in that fund. The common statutory fund served employees of many employers, so the third condition was not satisfied. The Court left the distinct question whether the statutory Board constituted trustees in the relevant legal sense undecided. The amount had irretrievably left the company in the relevant accounting year and was spent exclusively for business; section 10(2)(xv) was satisfied.

Source: [SCR pp. 471-473](#) / [PDF pp. 4-6](#)

03 JUDICIAL DECISION

The Court concurred in the High Court's answers: section 58K did not apply to this transfer, and the amount was deductible under section 10(2)(xv). Revenue's appeal was dismissed with costs.

Source: [SCR p. 473 / PDF p. 6](#)

04 OUTCOME / IN WHOSE FAVOUR

The assessee obtained the deduction for the statutory transfer in the relevant accounting year. The Court did not finally determine the separate general trust-status question concerning the statutory Board.

Source: [SCR pp. 472-473 / PDF pp. 5-6](#)

05 AKHB REVIEW POINT

AKHB analysis: identify the recipient fund, its beneficiaries, the legal obligation to transfer and the date funds irretrievably left the employer. Distinguish an internal provision from an actual statutory remittance. Apply present contribution-specific provisions independently; this historical holding does not supply a blanket deduction rule for modern provident-fund payments.

Source: [AKHB analysis based on SCR pp. 472-473 / PDF pp. 5-6](#)

SOURCE & VERIFICATION

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STATUTORY SCOPE

This applies sections 58K and 10(2)(xv) of the repealed 1922 Act to a particular statutory transfer. It does not resolve present employer/employee contribution timing or deduction restrictions under the 1961 Act.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive subsequent treatment has not been verified; no current citator clearance is represented.

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