

Dalmia Jain & Co. Ltd. v. Commissioner of Income-tax, Bihar & Orissa, Patna

Civil Appeal No. 1812 of 1967

[1971] Supp. SCR 963 | 1971-07-29

Litigation expenses defending an operating quarry business: revenue expenditure despite unsuccessful defence.

Indian Income-tax Act, 1922: section 66(1); business-expense capital/revenue distinction

2-judge bench | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: 1951-52

Defence expenditure, not damages or acquisition cost

The deduction concerned Rs. 1,29,994 of litigation expenses protecting the operating business. The judgment does not determine deductibility of the damages decree, the cost of obtaining a lease, or every unsuccessful legal proceeding.

01 FACTS OF THE CASE

After a short lease expired, the assessee continued working Bihar's Murli Hills limestone quarry as Government agent, with a prospect of a further lease. Kalyanpur Lime Company sued the State and assessee for specific performance or damages. The assessee defended the suit and ultimately was also held liable in damages. For AY 1951-52 it claimed Rs. 1,29,994 litigation expenses. The Tribunal found those expenses protected its existing business; the High Court instead treated them as connected with acquiring a new asset.

Source: [SCR pp. 964-966 / PDF pp. 2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The relevant inquiry was whether expenditure created, cured or completed title to capital, or protected an operating business. The assessee had been made a defendant because it was working the quarry and faced its own damages claim. Its defence was therefore reasonably understood as protection of that business, rather than pursuit of a future lease. Applying *Shree Meenakshi Mills*, failure in the civil proceeding did not itself defeat a deduction if the expense was honestly and reasonably incurred wholly and exclusively for business.

Source: [SCR pp. 965-967 / PDF pp. 3-5](#)

03 JUDICIAL DECISION

The High Court's answer was revoked and the referred question answered affirmatively in favour of the assessee. The identified litigation expenses were revenue expenditure for business. The assessee received costs in both the Supreme Court and High Court.

Source: [SCR p. 967 / PDF p. 5](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee on its litigation-expense deduction. The outcome does not reverse the underlying civil damages decision or decide the tax treatment of the damages themselves.

Source: [SCR pp. 965 and 967 / PDF pp. 3 and 5](#)

05 AKHB REVIEW POINT

AKHB analysis: retain the pleadings, claims and legal-bill descriptions to show whether litigation protects continuing operations or seeks a new capital asset. Separate defence costs from settlement amounts, damages and acquisition expenditure. An adverse result is not enough by itself to classify a bona fide business defence as capital, but the expense's actual purpose and applicable statutory restrictions remain essential.

Source: [SCR pp. 965-967 / PDF pp. 3-5](#)

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STATUTORY SCOPE

Historical statute and assessment facts control. No automatic Income-tax Act, 2025 crosswalk or present-law certification.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive subsequent judicial treatment and current-law applicability remain unverified. No current-law assurance or citator clearance is represented.

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