

C.A.P. Andiappan v. Commissioner of Income-tax, Madras & Another

Civil Appeals Nos. 1689 and 1690 of 1968

[1972] 1 SCR 88 | 1971-08-09

Historical India-Ceylon double-tax agreement: whether India could assess a resident and how the Ceylon tax abatement was measured.

Indian Income-tax Act, 1922: section 49A | India-Ceylon Double Taxation Agreement: article 3 and Schedule item 8 | Ceylon Income-tax Ordinance, 1932: section 45(2)

2-judge bench; unanimous judgment delivered by K. S. Hegde, J. | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: 1959-60, 1960-61

Superseded treaty setting

The ruling interprets the 1957 India-Ceylon agreement, not a current India-Sri Lanka treaty.

Abatement concerned tax payable

A hypothetical higher non-resident levy was not credited where Ceylon law actually imposed less.

Assessment power preserved

Article 3 limited retention through abatement rather than eliminating each country's ordinary assessment.

01 FACTS OF THE CASE

An Indian resident earned essentially all assessable income from business in Ceylon for two years. Ceylon taxed him as a resident under its Ordinance and the bilateral agreement, producing lower liability than hypothetical non-resident tax. India assessed under its law, credited the actual Ceylon tax and demanded the balance. The assessee claimed either complete exemption or the higher hypothetical credit (SCR pp.88-91; PDF pp.1-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Article 3 began by authorising each country to assess ordinarily under its own law. Read with Schedule item 8, it required deduction of the lower tax attributable to the same income in the other country. 'Attributable' meant payable after applying the whole foreign statute, including exemptions and allowances, not tax hypothetically leviable on a non-resident. Ramesh R. Saraiya supported treating the agreement as limiting tax retained, not assessment power (SCR pp.91-93; PDF pp.4-6).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court rejected both contentions and dismissed the appeals without costs, sustaining abatement of only the Ceylon tax actually payable (SCR p.93; PDF p.6).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue: Indian assessment stood and the foreign-tax abatement did not include tax relieved by Ceylon law (SCR pp.92-93; PDF pp.5-6).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: in treaty-credit work, separate the right to assess from the relief limiting double collection, and calculate foreign tax under the foreign law actually applied. This historic agreement cannot substitute for current treaty and credit-rule review (based on SCR pp.91-93; PDF pp.4-6).

Source: [Primary judgment: review point](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full 6-page SCR source asset read in page-preserving text and visually inspected.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and six-page count match catalogue asset 1972_1_88_93; every page was read and visually inspected.

The source verifies both appeals, the treaty language, calculations and dismissal.

No exact source-hash, asset-ID, SCR-citation, docket or same-judgment match was found.

STATUTORY SCOPE

The decision applies a historical India-Ceylon agreement and the repealed 1922 Act; current treaty text, residence rules and foreign-tax-credit provisions were not checked.

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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