

Commissioner of Income-tax v. Prabhu Dayal

Civil Appeal No. 1693 of 1968

[1972] 1 SCR 991 | 1971-10-06

Whether compensation for terminating a right to future profit-linked commission was capital or revenue receipt

Indian Income-tax Act, 1922: section 66(1)

Three-judge bench; judgment delivered by K. S. Hegde, J. | K. S. Hegde, J. | A. N. Grover, J. | H. R. Khanna, J.

Historical and transaction-specific

The case concerns a 1954 receipt under the 1922 Act. Later statutory rules and treatment of business or employment termination payments were not verified.

01 FACTS OF THE CASE

The assessee helped discover kankar deposits in Jind State, arranged a cement-manufacturing monopoly agreement and promoted the company to which the monopoly rights were transferred. Under a 27 May 1938 agreement, the company promised him one per cent of yearly net profits for the life of the monopoly agreement. After payments stopped, a suit ended in a compromise decree: Rs.15,000 for 1951-52 commission, Rs.15,000 for 1953 commission, and Rs.70,000 for terminating the future commission agreement from 1 January 1954. The officer and first appellate authority treated the Rs.70,000 as revenue; the Tribunal and High Court treated it as capital.

Source: [Primary judgment: arrangement, compromise and assessment history](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court found no systematic business of discovering minerals or arranging agreements: these were stray activities of a non-businessman. It distinguished payment for past services or liabilities from compensation for destruction of an income-producing asset. The former remains revenue; the latter is normally capital. The future one-per-cent commission right was the relevant asset, and the compromise extinguished it rather than merely accelerating accrued commission.

Source: [Primary judgment: capital/revenue analysis](#)

03 JUDICIAL DECISION

The Rs.70,000 was neither for past services nor accumulated commission. It was the price for surrendering the valuable future commission right and therefore a capital receipt on these facts.

Source: [Primary judgment: application to the termination payment](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal failed and was dismissed with costs.

Source: [Primary judgment: operative disposition](#)

05 AKHB REVIEW POINT

AKHB analysis: identify what the payment replaces. Separate accrued service or commission income from consideration for destroying the underlying income-producing right, and test whether that right formed part of an ongoing business structure. Do not carry this 1922-Act outcome into a modern termination payment without checking the governing provision and later authorities.

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

SOURCE & VERIFICATION

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

Complete 9-page SCR report read in page-preserving text and every page image inspected; exact source bytes match the catalogue SHA-256.

[Open cited source rendition](#)

Exact catalogue SHA-256 and nine-page count verified; all pages were read and visually inspected.

The report caption is distorted in the first-page header but the body identifies the appellant as the Commissioner of Income-tax and the respondent as Prabhu Dayal.

The result turns on the assessee's non-business status and destruction of the future commission right; it does not classify every agency or contract-termination receipt as capital.

STATUTORY SCOPE

Indian Income-tax Act, 1922, section 66(1), for assessment year 1955-56. The report does not construe later statutory provisions governing termination compensation.

LATER TREATMENT

Source checked 2026-10-12. No comprehensive later-treatment or present-law clearance is represented. The decision applies the historical 1922 Act to a fact-specific termination payment received in 1954.

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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