

S. G. Mercantile Corpn. (P) Ltd. v. The C.I.T., Calcutta

Civil Appeals Nos. 1748 to 1750 of 1968 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1972] 2 SCR 980 | 1972-01-04

A company's commercial development and subletting of leased market premises produced business income, excluding the residual other-sources head.

1922 Act: 2(4) | 1922 Act: 6 | 1922 Act: 9 | 1922 Act: 10(1) | 1922 Act: 12(1) | 1922 Act: 66(1)

4 Judges | J. M. Shelat | I. D. Dua | H. R. Khanna | G. K. Mitter

Scope of this decision

Historical lessee/trading facts; no universal modern rental-income classification.

01 FACTS OF THE CASE

The company's market-subletting receipts fell under section 10, not section 12, of the Indian Income-tax Act, 1922. Incorporated in January 1955 to deal commercially in property, it leased Taltolla Bazar shortly afterwards for fifty years at ₹3,000 monthly, with a forty-year renewal option. It undertook at least ₹5 lakh of improvement expenditure within five years and could sublet. Its activities in assessment years 1956-57, 1957-58 and 1958-59 consisted of developing the premises and letting shops, stalls and ground spaces. It returned losses and sought business classification relevant to carry-forward. The Tribunal accepted that claim; the Calcutta High Court rejected it.

Source: [SCR982-984: objects, lease and activities.](#)

02 DISCUSSION BY THE HON'BLE COURT

Khanna J began with the mutually exclusive income heads. Section 9 addressed property owned by the assessee; there was no finding of ownership here, and both sides accepted that this head did not arise. The real contest was therefore business income against the residual section 12. The latter applied only after excluding the preceding specific heads. Business could include taking a property on lease, developing a market and letting its units. The decisive inquiry was whether the activity represented investment enjoyment or an integral trading operation. Corporate objects had relevance, but the actual activity also mattered. The company promptly acquired the lease, accepted substantial development obligations and commercially exploited the premises throughout the relevant years. These facts supported the Tribunal's trading conclusion. East India Housing and the English Salisbury House decision concerned owners and did not resolve this lessee's claim. The Court expressly declined a wider determination about an owner's rental trading income.

Source: [SCR985-991: specific heads, business test and lessee distinction.](#)

03 JUDICIAL DECISION

The High Court's judgment was set aside and the referred question answered under section 10 rather than section 12. The decision classified the income on the established facts; it did not separately calculate a recoverable loss or determine every condition for its carry-forward.

Source: [SCR991D-F: section10 answer.](#)

04 OUTCOME / IN WHOSE FAVOUR

Company's appeals allowed; costs in the Supreme Court and High Court, one hearing fee. The disputed market receipts were business income under the 1922 Act.

Source: [SCR991F: allowance and costs.](#)

05 AKHB REVIEW POINT

Identify the relevant property interest and the commercial operation before selecting a head. A company's objects alone do not prove business. This historical lessee decision should not become a universal owner-versus-lessee rule; later statutory deemed-ownership provisions and later rental-income decisions require separate attention.

Source: [SCR987E-H,989E-990B,991: activity-based and lessee limits.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeals Nos. 1748 to 1750 of 1968 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Income-tax Reference No. 144 of 1963 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

12-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All 12 physical text/images SCR980-991 full judgment/headnote, SC1748-1750/1968 and originating Calcutta ITR144/1963 distinct. Headnote980 prints 1956-56 and 1959-59 versus judgment983 assessment years 1956-57, 1957-58, 1958-59; judgment controls. Scope limited lessee; no owner rental-business general ruling. Complete final allowance costs SC/HC one hearing fee. Some pages vertically reduced; all readable with text/image reconciliation.

Open cited source rendition

SCR 980 headnote prints 1956-56 and 1959-59; SCR 983 gives 1956-57, 1957-58 and 1958-59. The judgment's years control.

The ending says appeal in the singular although the opening expressly disposes of three numbered appeals.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 2(4), 6, 9, 10(1), 12(1), 66(1)

Whole 22/27 and 28 at displayed 2025 read. Section 22 uses ownership; 27 extends deemed ownership, including(iib)'s 269 UA(f) cross-reference. That cross-reference was not fully expanded here, so no complete lease-rule equivalence is claimed. Section 28 Explanation 3 separately excludes owners' residential letting from business income. Historical lessee status alone cannot settle modern classification.

Whole 20/25 in FA 2026 text and 26(1)–(4) read. Section 25(e) includes specified rights, including qualifying original or extendible leases of at least 12 years; 20 contains the property charge. Section 26(4) separately addresses owners' residential letting. These rules prevent simple carryover of the 1972 nonownership premise; no modern tax result for this old lease is determined.

The operative historical law remains the basis of the holding. Section 1(3) commences the 2025 Act on 1 April 2026, subject to contrary provision; selected 536 savings preserve earlier operations, liabilities and proceedings. Only exact stated versions/bounds were read, not all savings, amendments, rules or applicable facts. No automatic precedent carryover.

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted here; comprehensive subsequent history remains unverified.

Comprehensive subsequent history and present-law applicability are not certified.

No claim that later treatment is absent. Authorities discussed inside the primary judgment are source-field content, not later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act,1961: section 28](#)

Official HTML displayed 2025 Complete 28(i)–(vii), all provisos/explanations and annotations; HTML 38–136. Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

[Income-tax Act,2025: sections 26–27](#)

As amended by Finance Act 2026 Complete 26(1)–(4) and 27, lines 2191–2255 including pagebreak lines 2193/2232, physical 55–57; cover 1(1)–(3) lines 0–13. Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

[1961 section 22](#)

displayed 2025 identity/version 38–58; complete 63–67 Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

[1961 section 27](#)

displayed 2025 identity/version 38–58; complete 65–75 Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

[Income-tax Act,2025: sections 20 and 25](#)

As amended by Finance Act 2026 Complete 20(1)–(2),2073–2080, physical 52; 25(a)–(e),2163–2188, physical 55. Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

Income-tax Act,2025: bounded commencement and savings

As amended by Finance Act 2026 1(1)–(3), lines 0–13; 536(1),(2) opening and(a)–(e), lines 24385–24408 including FA 2026 amendment footnote; 536(3)–(4), lines 24597–24601. Not whole 536. Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

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