

Ram Pershad v. Commissioner of Income-Tax, New Delhi

Civil Appeal No. 1946 of 1968 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 1 SCR 985 | 1972-08-24

The managing director was an employee on the particular articles and service terms; his profit-linked commission was salary under section 7 despite considerable managerial autonomy.

1922 Act: 7 | 1922 Act: 66(1)

3 Judges | K. S. Hegde | P. Jaganmohan Reddy | H. R. Khanna

01 FACTS OF THE CASE

The managing director's ₹53,913 profit-linked commission was salary because his functions remained subject to the company's governing powers and employment terms. Ram Pershad and his wife held substantial shares in a hotel company. His remuneration included ₹2,000 monthly salary, ₹500 monthly car allowance, board and lodging, and ten per cent of gross profits. For assessment year 1956-57 he waived that commission after accounts were finalised but before shareholder approval, to avoid eliminating the company's net profit. The tax authorities, Tribunal and Delhi High Court treated it as accrued salary. In November 1971 the Supreme Court sought a supplementary statement on the alternative business-deduction question; the Tribunal answered it against him.

Source: [SCR987-988C: remuneration, waiver, reference questions and supplementary statement.](#)

02 DISCUSSION BY THE HON'BLE COURT

The remaining issue was the head of income under the Indian Income-tax Act, 1922: section 7 salary, which included commission, or business income. Jaganmohan Reddy J rejected an exclusive day-to-day-control test. Employment depends on the business, duties, articles and agreement; professional or managerial autonomy can coexist with service. A director may act as corporate agent while separately holding an employee's contractual position. Here the managing director had broad powers, including delegation, but had to implement the Board's decisions within the articles. His twenty-year appointment could end for lack of diligence or conduct against the company's interests. Separate permission to undertake agency work reinforced the distinction from his managing-director employment. Board supervision need not be continuously exercised to be legally effective. The cited treasurer and managing-agent cases turned on materially different contractual arrangements; they did not displace analysis of this company's provisions.

Source: [SCR988D-993F: tests and precedents; 993G-996A: particular articles, termination and board control.](#)

03 JUDICIAL DECISION

The Court held the remuneration salary under section 7. At this stage the receipt's revenue character and accrual, in light of the supplementary proceedings and Morvi Industries, were no longer disputed on the stated basis. The salary conclusion made the other questions unnecessary; the Court did not separately decide a section 10 deduction entitlement.

Source: [SCR988C-D: narrowed issue/accrual posture;996A-B: salary and other questions unnecessary.](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal dismissed with costs; the salary treatment of the commission stood. The ₹53,913 commission retained salary character; the alternative business-deduction question did not require decision.

Source: [SCR996B: appeal dismissed with costs.](#)

05 AKHB REVIEW POINT

Read the appointment documents: title, shareholding, term and percentage commission do not alone establish independent business. Compared 1961 sections 15/17(1) and 2025 section 16(d) distinguish employer-linked salary from its commission component. New Act section 15 is supported only by a complete official indexed excerpt, not direct PDF verification. No universal director-employment, modern payroll or withholding result follows; conflicting printed contract/accounting dates remain disclosed.

Source: [SCR989-990B,993E-995H: dual role and contractual control;987/994 date variants.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 1946 of 1968 — Supreme Court appeal or expressly printed appeal group decided in this judgment / I.T. Reference No. 46-D of 1962 — 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 physical pages 1-12/SCR985-996: full caption/headnote, dockets, entire Jaganmohan Reddy J judgment, supplementary-statement stage, all employment precedents and articles/agreement terms, final salary holding/costs. Every text and image personally read.

Open cited source rendition

SCR 987 describes agreement 20 November 1955; SCR 994 identifies clause(k) agreement 29 November 1955. Both printed, no harmonisation.

SCR 987 opens with account-year ending 30 September 1955 but recounts taxpayer arguments on 31 March 1956; preserve distinction/anomaly without inventing chronology.

OCR misreads physical page 4 printed 988 as 998 and title page 985 as 115; visual printed folios control.

The 1971 supplementary-statement direction is a prior stage in this appeal, not this final judgment's decision date.

Modern statutory evidence is limited to the exact versions and scopes in sources; retained capture hashes are not original website/PDF hashes unless expressly labelled. No present-tax-year or full savings determination.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 7, 66(1)

Whole 15 and 17(1), displayed 2025, read. Employer-linked due/paid/arrears charge is distinct from salary definition 17(1)(iv), which includes fees/commissions. Partner remuneration exclusion and no-duplicate-advance rule are retained.

Whole 16, displayed 2025, includes fees/commission in (d). Official indexed Act excerpt supplies complete 15(1)–(4), with employer-linked charge, former-employer inclusion, no double inclusion of advance, and partner exclusion. Direct PDF retrieval failed; no separate amendment-year or image certification.

Legacy 1922 Act holding; comparison versions and personally read scopes are explicit. No automatic precedent carryover or exhaustive present-law/repeal/savings determination.

Other provisions addressed: Sections 10(1) and 10(2): alternative question became unnecessary; Indian Companies Act 1913, section 17(2), Table A regulation 71

LATER TREATMENT

Source checked 2026-10-07. No specific later judgment is adopted in this note; no absence of later treatment is asserted.

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

Comprehensive subsequent history remains unverified; no later-use claim adopted.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: selected provision](#)

Official departmental rendition displayed 2025 Identity/version lines 38–58; entire section 15(a)–(c) and both Explanations, lines 63–75. Fresh personal bounded read of exact retained official tool-text capture. No inherited actor read, original HTML/PDF-byte or image claim; no full present-law, tax-year or repeal/savings determination.

[Income-tax Act, 1961: selected provision](#)

Official departmental rendition displayed 2025 Identity/version lines 42–62; introductory line 69 and complete 17(1)(i)–(ix), lines 71–83. Perquisite/profits-in-lieu clauses 17(2)–(3) are not the adopted comparison. Fresh personal bounded read of exact retained official tool-text capture. No inherited actor read, original HTML/PDF-byte or image claim; no full present-law, tax-year or repeal/savings determination.

[Income-tax Act, 2025: selected provision](#)

Official departmental rendition displayed 2025 Identity/version lines 38–58; complete 16(a)–(l), lines 63–77. Fresh personal bounded read of exact retained official tool-text capture. No inherited actor read, original HTML/PDF-byte or image claim; no full present-law, tax-year or repeal/savings determination.

[Income-tax Act, 2025: selected provision](#)

Departmental Act 2025 PDF indexed text; the specific excerpt does not display a separate amendment-year label. Complete displayed/indexed section 15(1)(a)–(c), 15(2), 15(3), 15(4). No PDF physical page or web-line position is supplied by this search rendition. Fresh read of complete displayed section 15(1)–(4) in official indexed Act excerpt only. Direct PDF retrieval failed; no physical page, raw PDF, image, independent amendment-year or complete current-law verification.

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