

M. K. Brothers (P) Ltd. v. C.I.T., Kanpur

Civil Appeal No. 342 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 1 SCR 1077 | 1972-08-29

Commission retained to discharge the predecessor's debt in consideration for acquiring a sole selling agency was taxable income applied to capital expenditure, despite periodic deductions and a no-claim clause.

1922 Act: 10 | 1922 Act: 66(1)

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

01 FACTS OF THE CASE

M. K. Brothers obtained the sole selling agency of Kanpur Cotton Mills in place of Sharma & Co., which owed British India Corporation Rs. 8,39,350/15/6. The arrangement required the new agent's commission to discharge that debt. The July 1956 indenture, effective from April 1955, authorized retention of one-seventh of trade discount, subject to a Rs. 50,000 annual minimum, and denied the agent a claim to sums so retained. For assessment year 1956-57, the company credited Rs. 2,06,283 commission and deducted Rs. 43,333 retained by the corporation. The authorities, Tribunal and Allahabad High Court rejected the deduction under the Indian Income-tax Act, 1922.

Source: [SCR 1079A-1081F](#)

02 DISCUSSION BY THE HON'BLE COURT

Khanna J identified the consideration for the transaction: the company undertook the predecessor's liability to acquire the agency right. Counsel accepted that paying the acquisition amount at once would have been capital expenditure. Paying it in instalments from future commission did not change its nature. The amount, frequency and source of payment were subordinate to the expenditure's aim and object. Following Assam Bengal Cement and the relevant reasoning in P. H. Divecha, the Court distinguished acquisition of an enduring business asset from expenditure in carrying on an existing trading activity. Clause 13's denial of any claim to the retained commission did not remove the payment's acquisition purpose; retention implemented the company's own agreed obligation.

Source: [SCR 1081G-1083F](#)

03 JUDICIAL DECISION

The Rs. 43,333 represented application of income to satisfy a liability undertaken to acquire the sole selling agency, an asset of capital nature. It was not an expense incurred merely in running the business. The Court upheld the High Court's adverse answers both on inclusion as assessable income and on the claimed section 10 deduction. Periodic collection through the corporation did not transform the capital acquisition price into revenue expenditure.

Source: [SCR 1082A-H and 1083D-F](#)

04 OUTCOME / IN WHOSE FAVOUR

The assessee's appeal was dismissed with costs. The retained Rs. 43,333 remained assessable without the claimed revenue deduction.

Source: [SCR 1083F](#)

05 AKHB REVIEW POINT

Follow the underlying obligation when receipts are withheld or credited directly to someone else. Determine whether the taxpayer acquired the earning right in return for assuming the liability, and distinguish that price from later operating costs. A net-payment or no-claim clause does not settle the tax character by itself. Modern deduction or depreciation eligibility for acquired rights needs separate statutory analysis. The bounded modern general-deduction comparison is 1961 section 37 to 2025 section 34, subject to each version's exclusions.

Source: [SCR 1080E-1083F](#); editorial obligation and modern-allowance limits; [Whole displayed section 37, main \(1\), Explanations 1-3, \(2B\), omitted slots and footnote 17; HTML 38-95](#); [Whole section 34\(1\)-\(3\); HTML 38-73](#).

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 342 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Misc. Case No. 434 of 1962 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

7-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.

Open cited source rendition

The headnote's third proposition is awkwardly worded; the judicial body at SCR 1083E-F expressly describes application of income to an acquisition liability and controls the note.

The judgment states section 10 generally; no unprinted subsection is represented as expressly cited.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 10, 66(1)

Section 37(1), official displayed 2025 text, excludes capital/personal expenditure and applies the wholly-and-exclusively business test, subject to specified provisions and express exclusions. It supplies a general comparison, not a decision on this historical payment under the later Act.

Section 34(1)-(3), displayed 2026, supplies the general expenditure test with its own enumerated exclusions. This is a bounded 37→34 comparison; special allowances and the applicable tax year require separate analysis.

Legacy 1922 holding. Exact compared versions and bounded read scopes are recorded in sources; no automatic present-law carryover or exhaustive tax-year/repeal/savings determination.

LATER TREATMENT

Source checked 2026-10-07. No specific later judicial use has been adopted for this note in this bounded review. This is a verification limit, not an assertion that none exists.

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

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: section 37](#)

Official HTML displayed 2025; not verified as a complete 2026 consolidation Whole displayed section 37, main (1), Explanations 1-3, (2B), omitted slots and footnote 17; HTML 38-95. New personal bounded read of retained coordinator official web text. No fresh author acquisition, original PDF/HTML hash, page-image inspection or complete current-applicability/savings certification.

[Income-tax Act, 2025: section 34](#)

Official 2025 Act as amended by Finance Act 2026; section 34 HTML displays 2026 Whole section 34(1)-(3); HTML 38-73. New personal bounded read of retained coordinator official web text. No fresh author acquisition, original PDF/HTML hash, page-image inspection or complete current-applicability/savings certification.

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