

Mahabir Commercial Co. Ltd. v. C.I.T. West Bengal, Calcutta

Civil Appeal No. 450 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 2 SCR 134 | 1972-09-08

For the five sales referred, property passed in Pakistan when the contractual documents were tendered through the bank and the seller received payment; later quality remedies did not postpone title transfer to India.

1922 Act: 66(1)

2 Judges | P. Jaganmohan Reddy | H. R. Khanna

01 FACTS OF THE CASE

The five disputed jute sales and their profits arose outside India because the seller relinquished control under the agreed documentary-credit arrangement in Pakistan. For assessment year 1952-53, the Income-tax Officer and Appellate Assistant Commissioner had treated sales claimed at ₹11,42,979 as Indian sales. After factual remand, the Tribunal distinguished five bills of lading in the buyers' names, for which sales occurred in Pakistan, from two in the seller's agent's name, treated as Indian sales. The section 66(1) reference under the Indian Income-tax Act, 1922 concerned only the five cases. The High Court obtained supplementary documents, then rejected the Tribunal's conclusion.

Source: [SCR138-140: year, turnover, five-versus-two transactions, supplementary reference and High Court approach.](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court examined contractual intention and the operation of appropriation, rather than treating the Calcutta contract or Indian destination as decisive. Under Sale of Goods Act sections 23 and 39, delivery to a carrier without reservation of disposal can effect appropriation, but intention and retained control remain material. Here a confirmed irrevocable credit authorised payment in Pakistan against shipping documents; freight and insurance paid by the buyers for the seller were deducted from the invoice. Once the seller tendered the agreed documents and received payment, it retained no property in the goods. Clause 7 addressed the buyer's failure to accept or pay against documents. Clause 9(3) supplied remedies for particular lots' quality or excessive moisture; it did not reserve title pending inspection in India. The bank's payment guarantee and the description of drafts as advance bills did not alter this result. Mysore Chromite was distinguished because its seller retained a bill of lading in its own name until documentary payment in London.

Source: [SCR141-152: law, complete contract/credit and documentary sales; SCR153-156: application and distinguishing Mysore Chromite.](#)

03 JUDICIAL DECISION

Agreeing with the Tribunal, the Court answered the referred question affirmatively and against the department: the five sales took place outside India and their profits arose outside India. It did not reopen the two differently documented sales.

Source: [SCR155F-156C: no retained property; affirmative answer.](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal allowed with costs; the High Court's negative answer was reversed. The five buyer-name documentary sales and their profits were treated as outside India; two other transactions were outside the question decided.

Source: [SCR156C: appeal allowed with costs.](#)

05 AKHB REVIEW POINT

Preserve contract, credit, bill of lading, tender and payment sequence; inspection remedies need not postpone title. The compared 1961 and 2025 section 5 texts separately address residence, receipt and accrual: offshore title is no universal income-tax exemption. Neither complete deeming rules nor treaty application is certified. The report's ₹1 turnover discrepancy and separate Pakistan assessment figure remain disclosed; no later judicial application is adopted.

Source: [SCR138-139 numerical reports;142,152-153,155 contractual intention and conditions.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 450 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Income-tax Reference No. 19 of 1958 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

23-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 pages1-23/SCR134-156: full caption/headnote, complete judicial text, quoted Sale of Goods Act provisions, complete contract and credit instrument, authorities, five-versus-two transaction distinction and final answer/costs. Every text page and image personally inspected.

Open cited source rendition

SCR 138 prints total ₹23,93,767; foreign ₹10,06,772 +India ₹2,44,015 +disputed ₹11,42,979 sum to ₹23,93,766. Printed Indian combined ₹13,86,995 differs by ₹1 from ₹13,86,994. No silent correction.

SCR 139 separately records assessee submission that Pakistan officer assessed ₹18,06,772; do not replace the disputed ₹11,42,979 with it.

SCR 139 says property passed to assessee in India in recounting ITO view; context and referred question concern buyers. SCR 153 similarly prints documents sent to seller for acceptance. These are recorded source wording anomalies.

The printed quotation's Indian-section cross-reference at SCR 150 refers to38 while the statutory discussion at 141 quotes39; no independent modern Sale of Goods statutory certification made.

Complete report contains no adjoining judgment.

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; 66(1)

Whole 1961 section 5, displayed 2026, distinguishes resident world-income scope (subject to its proviso) from nonresident India-receipt/accrual/deemed categories, and contains balance-sheet and no-double-inclusion explanations. Offshore title alone is not a universal exemption.

Whole 2025 section 5, displayed 2026, retains the residence/receipt/accrual distinctions, uses section 6(13) for the not-ordinarily-resident qualification, and puts the explanatory rules into (3)-(4). No complete section 9/treaty framework or new liability decided.

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: Sale of Goods Act, 1930, sections 23 and 39; C.I.F. contract clauses 7 and 9(3); confirmed irrevocable letter of credit

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 2026 Identity/version lines 38-58; full section 5(1)-(2), proviso and both Explanations, lines 61-73. 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 2026 Identity/version lines 38-58; full section 5(1)-(4), lines 61-78. 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.

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