

British India Corporation v. Commissioner of Income-tax, U.P., Lucknow

Civil Appeal Nos. 1987 to 1988 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 2 SCR 524 | 1972-10-03

Wartime profit-linked managerial commission could be restricted under the special Excess Profits Tax rule despite its ordinary income-tax allowance.

Excess Profits Tax Act, 1940 | 1922 Act: 10 (comparative discussion) | 1922 Act: 66(2)

3 Judges | K. S. Hegde | P. Jaganmohan Reddy | I. D. Dua

Scope of this decision

Special Excess Profits Tax computation; no ordinary income-tax necessity rule or automatic modern deduction result.

01 FACTS OF THE CASE

The Court upheld disallowance of part of the corporation's managerial commission under Schedule I, rule 12(1), of the Excess Profits Tax Act, 1940. Directors and branch managers received commission on net audited profits before taxation. Board resolutions in February and July 1940 confirmed that excess profits tax was not to be deducted before calculating commission. For calendar 1945 and January–March 1946, the officer disallowed ₹5,39,057 and ₹1,28,743 respectively. The Tribunal and Allahabad High Court upheld those amounts. The corporation relied on its longstanding arrangements, commercial practice and allowance of the commission under section 10 of the 1922 Income-tax Act.

Source: [SCR525–527: periods, resolutions and disallowance computation.](#)

02 DISCUSSION BY THE HON'BLE COURT

Jaganmohan Reddy J treated rule 12 as a special control against dissipating excess profits through expenditure unrelated to business requirements. The inquiry concerned reasonableness and necessity, with actual services relevant to directors' remuneration. Commercial practice and expediency were relevant factors even though the rule did not name them. An increase in management activity or establishment could justify increased expense; an increase attributable to war conditions did not itself justify proportionate managerial rewards. The officer's incorporated earlier reasons explained why commission calculated before excess profits tax was excessive in this business. Following Ahmedabad Manufacturing & Calico Printing, the Court rejected the complaint that adequate reasons were absent. It criticised aspects of both the earlier and present High Court reasoning, while sustaining the present answers. The prior decisions were discussed authorities, not additional appeals being disposed of.

Source: [SCR528–531: prior decisions, rule12 and reasons.](#)

03 JUDICIAL DECISION

The assessments concerned the two specified chargeable accounting periods. The officer's restriction to commission on profits after excess profits tax was supported on this record. The answers upholding the two disallowances were left undisturbed. The Court did not reverse the separate ordinary income-tax allowance or announce that all profit-linked remuneration must be calculated after tax.

Source: [SCR531G-532: supported restriction and answers.](#)

04 OUTCOME / IN WHOSE FAVOUR

Corporation's appeals dismissed with costs. The ₹5,39,057 and ₹1,28,743 excess-profits-tax disallowances stood.

Source: [SCR532: dismissal with costs.](#)

05 AKHB REVIEW POINT

Start with the exact deduction power. This is an Excess Profits Tax holding, not a general section 37 necessity test. Its research value lies in separating contractual liability, commercial evidence and a statute's special restriction. Modern expense provisions require their own wording and applicable version; the wartime computation cannot be carried across automatically.

Source: [SCR527 ordinary income-tax distinction;529-531 special rule.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 1987 to 1988 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Income-tax Reference No. 154 of 1957 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

9-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 9 physical text/image pages. SCR pp.524-532: full headnote, title/date/coram, SC appeals 1987-1988/1969 and originating reference154/1957, full Reddy judgment and dismissal with costs. Printed p.528 first paragraph says prior periods1943 and1946, later states1943 and1944; retained, not silently corrected. Image p.527 percentage8.4%, OCR8.43 is wrong. No adjacent judgment.

Open cited source rendition

SCR 528 first paragraph prints prior periods 1943 and 1946, but later repeatedly 1943 and 1944; preserved without correction.

The visual percentage on SCR 527 is 8.4%; OCR renders 8.43. ₹11,47,143/₹11,06,693 in the narrative are distinct from actual disallowances ₹5,39,057/₹1,28,743.

STATUTORY SCOPE

Excess Profits Tax Act, 1940, Schedule I rule 12(1) and section 21; Indian Income-tax Act, 1922, section 66(2) reference procedure and section 10 discussed separately as ordinary-tax comparator.

Section 37(1), displayed 2025, uses the wholly-and-exclusively business-purpose test with capital/personal and other statutory exclusions; it does not reproduce Excess Profits Tax rule 12's special reasonable-and-necessary test. Whole 37 read. No mechanical transfer of the wartime restriction.

Section 34(1)-(3), displayed 2026, sets the general business deduction and exclusions. It is a comparison of different statutory wording, not a successor Excess Profits Tax computation or automatic post-tax commission rule.

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.

Other provisions addressed: Schedule I, rule 12(1); Section 21

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 37](#)

Official HTML displayed 2025 Whole 37(1), Explanations 1-3, (2 B), omissions/annotation, HTML 38-95. 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: section 34](#)

Official HTML displayed 2026 Complete 34(1)-(3), HTML 38-73. 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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