

Commissioner of Income-tax, Kerala, Ernakulam v. Travancore Sugar & Chemicals Ltd.

Civil Appeal No. 2161 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 2 SCR 738 | 1972-10-27

The contractual Rs 42,480 profit-linked payment was allowable under 1922 section 10; the earlier finding that it was revenue expenditure was settled, and the binding concession obligations supported deduction.

1922 Act: 10(1) | 1922 Act: 10(2)(xv)

2 Judges | P. Jaganmohan Reddy | I. D. Dua

01 FACTS OF THE CASE

Travancore Sugar claimed deduction of Rs 42,480 payable to the Government for assessment year 1958-59 under agreements for taking over three undertakings. The original 1937 agreement separately priced the assets and required 20% of annual net profits, capped at Rs 40,000. A substituted 1947 clause required 10% of defined net profits. In 1966 the Supreme Court held the payment revenue expenditure but remanded other issues. After remand, the Kerala High Court allowed the deduction. Revenue's present appeal challenged that conclusion under section 10 of the Indian Income-tax Act, 1922.

Source: [SCR 739G-745D](#); [current appeal distinguished from quoted prior appeal](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected reopening the settled capital-versus-revenue conclusion merely because the earlier appeal had resulted in a remand. It then examined the contractual obligations rather than treating resemblance to another case as decisive. A profit-based measure could describe either a distribution after profits accrued or an expense incurred to earn them. Diversion at source meant the amount never became the assessee's income; application after receipt did not have that character. Here the company's formation and acquisition were burdened from inception with interlinked obligations, including government concessions, local staffing and training requirements, and an indefinite profit-linked payment. The mere use of profits to calculate the amount did not make it a distribution of profits.

Source: [SCR 745A-751E](#)

03 JUDICIAL DECISION

On the contract as a whole, the Court sustained deduction of the payment: as revenue expenditure, an overriding charge on the profit-making apparatus, or expenditure wholly and exclusively for trade, the reference answer was affirmative. Capital expenditure remained excluded by section 10(2)(xv); the Court did not announce that every revenue-labelled or profit-linked payment is automatically deductible.

Source: [SCR 746B-H, 750C-751F](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal dismissed with costs in the Supreme Court and High Court. Deductibility of the Rs 42,480 payment was upheld; the 1972 judgment finally resolved this appeal after the earlier remand.

Source: [SCR 751E-F](#)

05 AKHB REVIEW POINT

Read the operative agreement, its commercial purpose and the moment at which the obligation attaches to income. Distinguish a payment's calculation base from its legal character. Keep the 1937 cap separate from the substituted 1947 clause and the 1966 capital/revenue ruling separate from this 1972 final decision. Later statutory conditions require their own analysis. Yum!(2020) later quotes the diversion/application distinction, while leaving its own diversion claim open.

Source: [SCR 741C-D,744B-745D,747D-751F](#); editorial contractual and procedural distinctions; [Cover/contents physical 2 and 6 identify 2011/Finance Act 2011; main 37\(1\), physical 291/printed 1,250, web 12681-12686. Following explanations not adopted.; Title physical 1 and complete 34\(1\)-\(3\), physical 67-68, web 2657-2683.; Caption/identity paragraphs 1-2, physical 1-2; paragraphs 36-42, physical 32-36/web 811-922. Paragraph 38, physical 34 and footnote 12 expressly quote this 1972 Travancore passage, reported\(1973\)3SCC 274.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 2161 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Income-tax Referred Case No. 16 of 1962 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal / Appeal No. 324 of 1965 — Earlier Supreme Court appeal decided 20 September 1966 and remanded; litigation history, not an appeal disposed of by this 1972 judgment

SOURCE & VERIFICATION

Original reported Supreme Court judgment

14-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 and long factual quotation use "appellant" for the company from the earlier appeal; Revenue is appellant in this 1972 proceeding.

The 1937 clause's Rs 40,000 cap is not reproduced in the substituted 1947 clause. Rs 42,480 is the disputed amount under the revised arrangement, not an arithmetic error against that earlier cap.

SCR 741 prints the corresponding previous year as 1 May 1956-30 April 1957 for AY 1958-59; no unprinted correction is made.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 10(1), 10(2)(xv)

The 2011 edition of main section 37(1) supplies a bounded comparison for noncapital, nonpersonal business expenditure incurred wholly and exclusively for business; the complete current 1961 provision was not verified.

Section 34(1)–(3), FA 2026 compilation, contains the general business-expense test and express exclusions. This compares with 37, but does not decide whether any later contract creates a diversion at source or satisfies every modern deduction condition.

qualified; operative legacy holding and bounded comparison are separately identified

LATER TREATMENT

Source checked 2026-10-07. Yum! Restaurants (Marketing), 24 April 2020, paragraph 38 judicially quotes Travancore's distinction between diversion before accrual and application after receipt. It does not find that Yum's contributions were diverted: paragraphs 40–42 leave its unadjudicated ground to the pending rectification route and express no view on that application's tenability.

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

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: main section 37\(1\)](#)

Department-hosted 2011 compilation; not a complete current 1961 text Cover/contents physical 2 and 6 identify 2011/Finance Act 2011; main 37(1), physical 291/printed 1.250, web 12681–12686. Following explanations not adopted. Personally read bounded official text; comparison only. No automatic precedent carryover or broader currentness certification. Original web-source bytes/images not retained or inspected.

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

FA 2026 compilation; checked 7 October 2026 Title physical 1 and complete 34(1)–(3), physical 67–68, web 2657–2683. Personally read bounded official text; comparison only. No automatic precedent carryover or broader currentness certification. Original web-source bytes/images not retained or inspected.

[Yum! Restaurants \(Marketing\) Private Limited v. Commissioner of Income Tax, Delhi \(2020-04-24\)](#)

Caption/identity paragraphs 1–2, physical 1–2; paragraphs 36–42, physical 32–36/web 811–922. Paragraph 38, physical 34 and footnote 12 expressly quote this 1972 Travancore passage, reported (1973) 3 SCC 274. Official Supreme Court web-extracted PDF text personally read at stated bounds only; no complete 36-page or original-PDF hash claim. Screenshot attempts failed. The rectification/diversion merits were expressly left open.

AI DISCLOSURE

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