

NONSUCH ESTATE LTD. v. THE COMMISSIONER OF INCOME-TAX, MADRAS

Civil Appeal No. 1554 of 1970; Originating High Court proceedings: Tax Case No. 18 of 1965
[1975] 2 SCR 806 | 1974-11-21

Mandatory government approval created the managing-agency liability when approval was given, despite its retrospective effective date. Mercantile bookkeeping entries before approval did not establish an earlier deductible liability.

2-judge bench | H. R. Khanna, J. | A. C. Gupta, J.

Approval created the liability

The result depends on the absolute statutory prohibition against appointment before approval. It does not cover every later approval or an existing liability awaiting calculation.

Operative context: Indian Income-tax Act, 1922; 66(1); Companies Act, 1956, section 326; other operative provisions: Companies Act, 1956, section 326.

01 FACTS OF THE CASE

Nonsuch Estate earned income from tea grown on its estate. Harrisons and Crosfield had long acted as managing agents. After the Companies Act 1956 commenced, a fresh arrangement proposed reappointment for ten years from 1 April 1956 at 5% of computed net profits, subject to a minimum annual remuneration of Rs. 12,000.

The Government approved the appointment on 2 September 1957 with the proposed retrospective effect. The company followed mercantile accounting and had entered the earlier remuneration in its accounts but added it back for income-tax purposes. It claimed Rs. 97,188, covering remuneration and recouped expenses for 1 April 1956 to 30 June 1957, in assessment year 1959-60, whose previous year ended 30 June 1958. The authorities and Madras High Court rejected the timing claim.

Source: [SCR 807 A-H;808 A-G](#)

02 DISCUSSION BY THE HON'BLE COURT

Mercantile accounting recognises a legally incurred liability before payment; it does not itself create the liability. The High Court had treated later approval as validating the earlier debit entries from their dates, overlooking the substantive prohibition in section 326 of the Companies Act.

That provision prohibited appointment or reappointment without Central Government approval. Approval depended on public interest, the proposed agent's suitability, fair and reasonable terms and compliance with imposed conditions. It therefore could not be assumed that approval would follow every proposal.

Only the letter of 2 September 1957 made the appointment effective and caused the obligation to pay remuneration to accrue. Giving approval retrospective operation from 1 April 1956 did not make the obligation arise before approval. The Court expressly distinguished this situation from an already existing liability whose amount alone awaited determination. Thus the operative legal condition, rather than the dates assigned in the accounts or the period of services, fixed accrual on these facts.

Source: [SCR 809 A-H;810 A-D](#)

03 JUDICIAL DECISION

The appeal was allowed. The High Court's answer was discharged and the referred deduction question answered affirmatively for the company. It was entitled to costs in both the Supreme Court and High Court.

Source: [SCR 810 D](#)

04 OUTCOME / IN WHOSE FAVOUR

Appeal allowed; deduction reference answered for assessee. Result: Assessee. Costs: Assessee awarded costs in Supreme Court and High Court. Scope: Rs. 97,188 deductible in the approval-linked year under review. Limit: Approval was a legal condition to appointment/liability, not merely payment or quantification.

Source: [SCR 810 D](#)

05 AKHB REVIEW POINT

Identify precisely what approval controls: creation of the obligation, its measurement or payment. Preserve the agreement, governing statute, approval letter and accounting reconciliation. A retrospective effective date does not necessarily backdate accrual, while this decision does not justify deferring every uncertain or unquantified expense until formal approval arrives.

Source: [SCR 809 D-H;810 A-D](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

5-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

The total Rs. 97,188 reconciles with the four printed components Rs. 9,320, Rs. 71,368, Rs. 13,200 and Rs. 3,300. The source does not identify a particular 1922 general deduction section; the note does not invent one. Decision year 1974 differs from reporter year 1975.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 66(1); Companies Act, 1956, section 326.

The 2011 versions of sections 37(1) and 145(1) separately address business deductibility and the regularly employed cash/mercantile method. Neither substitutes for determining when a binding liability arose.

Sections 34(1) and 276(1),(2) provide the corresponding general expenditure and accounting framework, subject to exclusions and notified standards. They do not establish the effect of an approval under the historical Companies Act.

The 2025 Act commenced 1 April 2026. Section 536 preserves 1961 proceedings/procedure for tax years beginning before that date and pending proceedings; compare the actually applicable law.

Related-section tags are research cross-references, not provisions decided in this judgment or verified mappings beyond the specific comparisons and source bounds below.

No automatic precedent carry-over or verified case-specific 2025 applicability is claimed.

LATER TREATMENT

Source checked 2026-10-07. No separate later judicial use is verified in this bounded review. No inference of absence of later treatment is made.

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

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961, as amended by Finance Act 2011; supplied DOR compilation](#)

Sections 37(1),145(1); physical 291,718; printed 1.250,1.677. Selected text only; not current 1961 consolidation or image verification.

[Income-tax Act, 2025, as amended by Finance Act 2026](#)

Section 34(1) physical 67 lines 2657-2663;276 physical 370 lines 14971-14983. Selected web-extracted text; no raw-PDF/image verification or all-amendments certificate.

[Statutory comparison pinpoint](#)

Section 34(1) physical 67 lines 2657-2663;276 physical 370 lines 14971-14983.

[Statutory comparison pinpoint](#)

Section 1(3), physical 1; section 536(2)(c),(e), physical 584-585, extracted lines 24385-24408.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

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