

Commissioner of Income Tax, Madras v. Southern Roadways (P) Ltd.

Civil Appeal No.211 of 1970 / Civil Appeal No.212 of 1970

[1975] 2 SCR 881 | 1974-11-28

Whether new diesel engines fitted to the assessee's road transport vehicles earned development rebate for AYs 1961-62 and 1962-63 despite the respective statutory exclusions of road transport vehicles, and whether Mir Mohammad under an earlier depreciation scheme governed both references.

33(1)(a) (development rebate; exclusion of road transport vehicles) | 256(1) (reference for AY 1962-63) | 34 (cross-reference in quoted section 33; no separate holding)

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

Assessment years: 1961-62, 1962-63

Mixed statutory years, transport exclusion and historical-only rebate

AY 1961-62 is governed by the 1922 Act; AY 1962-63 is an actual 1961 section 33 decision. Both Revenue appeals succeed, although their reference answers are respectively negative and affirmative. The scan prints an inconsistent 31 March 1952 accounting-year end for AY 1962-63 and one hearing free in the costs sentence. No silent source correction is made. The decision concerns development rebate, not every depreciation or repair claim. The retained compilation records later rebate withdrawal with limited transition. Original PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

The assessee, a private company operating lorries and buses, claimed development rebate on new diesel engines installed in its vehicles. Two special-leave appeals arose from the Madras High Court's identical answers of 4 September 1967 in Tax Cases Nos.155 and 156 of 1965. The appellant is described in the body as the Commissioner of Income-Tax (Central), Madras (physical page 1/SCR 881 F-H).

For AY 1961-62, corresponding to the accounting period ending 31 March 1961, the company fitted eleven new engines and claimed Rs.23,740 as development rebate on their cost. The Officer and Appellate Assistant Commissioner rejected the claim, but the Tribunal treated the engines as machinery installed within 1922 section 10(2)(vi-b) and allowed it. Civil Appeal No.211 asks whether that allowance was right (physical page 2/SCR 882 A-E).

For AY 1962-63, the company fitted new engines to two vehicles and claimed Rs.3,144. All three tax authorities disallowed this claim; the Tribunal reasoned that, even if an engine alone was machinery, when installed in a vehicle the relevant business unit was a road transport vehicle excluded by section 33. Civil Appeal No.212 therefore asks whether the Tribunal was right to refuse the rebate. The scan's associated accounting-year end reads 31 March 1952; this note preserves it as an unresolved source-date anomaly, rather than supplying a corrected year (physical page 2/SCR 882 C-G).

The High Court nevertheless answered both references in the assessee's favour solely by relying on CIT v. Mir Mohammad. That earlier case involved replacement engines and additional depreciation for AY 1950-51 under differently worded provisions; its description here is the present Court's treatment, not a fresh independent review of that earlier source (physical pages 2-3/SCR 882 H-883 C).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court first separated the statutory periods. The 1922 Act wording relevant to AY 1950-51 in Mir Mohammad was not the wording applicable on 1 April 1961. Section 10(2)(vi-b), governing the present AY 1961-62 development-rebate claim, had been introduced from 1 April 1955 and substituted in 1958. The second proviso excluding office appliances and road transport vehicles took effect from 1 April 1960. Consequently, the earlier conclusion that an engine was machinery installed for depreciation did not remove the later express exclusion (physical pages 3-4/SCR 883 D-884 D).

The assessee argued that the engines retained their character as machinery after installation and therefore escaped the road-transport-vehicle proviso. The Court rejected that route. The allowance required machinery used for the assessee's business; the engines were not independently so used, while the vehicles in which they were fixed were admittedly the business assets in use. The proviso therefore barred development rebate for AY 1961-62. This is an application of the exclusion to the asset used in this transport business, not a universal finding that every installed component ceases to be machinery for every provision (physical page 4/SCR 884 C-F).

For AY 1962-63, the Court separately quoted section 33(1)(a) of the 1961 Act. That provision excluded office appliances and road transport vehicles in the allowance-granting text itself. It was materially different from the provisions applied in Mir Mohammad. The same reliance on that earlier depreciation decision could not sustain the High Court's answer on this actual 1961 Act claim (physical pages 4-5/SCR 884 F-885 A).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

Both Revenue appeals were allowed and the High Court's answers discharged. In Civil Appeal No.211 of 1970 (AY 1961-62), the question whether the Tribunal was right to allow rebate was answered in the negative. In Civil Appeal No.212 of 1970 (AY 1962-63), the question whether it was right to disallow rebate was answered in the affirmative. Both answers favour Revenue. Costs in the Supreme Court and High Court were awarded to the appellant. The closing scan literally says "one hearing free"; the conventional phrase hearing fee is not substituted in the source (physical page 5/SCR 885 A-B).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue in both years

Both appeals allowed; opposite yes/no answers because the two reference questions were oppositely worded

Final rejection of both development-rebate claims under the respective historical provisions

No determination of a current section 32 depreciation/current-repairs claim; no holding that all replacement machinery is ineligible under every allowance provision; the 1922 and 1961 years remain separate.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Identify the actual allowance, statutory year, express exclusions and asset used before importing a definition from an earlier case. The fact that a replacement engine is machinery does not resolve eligibility where the enacted scheme excludes the transport vehicle in which it is used. Also record each reference question: a negative answer and an affirmative answer can both favour Revenue when one asks about allowance and the other about disallowance.

Historical limitation: the retained government-hosted 2011 compilation records later section 33(1) substitutions/amendments (physical page 227/printed 1.186, footnote 80), and records withdrawal of development rebate for ships acquired or machinery/plant installed after 31 May 1974 under the 28 May 1971 notification, with specified limited transitional continuance (page 231/printed 1.190, footnote 96). This is a bounded compilation check; the original notification and transitional Finance Act provisions were not independently acquired. The historical result is not a presently available rebate or a certified rule for later depreciation schemes.

The targeted later-treatment search did not produce an acquired primary later judgment directly treating this 1974 engine-rebate decision. Search results included the separate 1962 constitutional Southern Roadways case and other same-party matters, which were not merged. No absence-of-adverse-treatment conclusion is drawn.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Date, bench, author, appeals and mixed regime

Source url: [Open cited source](#)

Pdf pages: 1

Paragraphs: SCR 881 heading, F-H

Source role: reported metadata and judicial text

2.

Topic: Separate claims and reference questions; source-date anomaly

Source url: [Open cited source](#)

Pdf pages: 2

Paragraphs: SCR 882 A-H

Source role: judicial text

3.

Topic: Earlier depreciation precedent distinguished; amended 1922 text

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 883 A-884 D

Source role: judicial text

4.

Topic: Engines in excluded transport vehicles; actual section 33 claim

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 884 C-885 A

Source role: judicial text

5.

Topic: Both appeals, opposite reference answers and costs

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 885 B

Source role: judicial text

6.

Topic: Later section 33 amendment and withdrawal record

Source url: [Open cited source](#)

Pdf pages: 227; 231

Paragraphs: Printed 1.186 footnote 80; 1.190 section 33(5) and footnote 96

Source role: bounded statutory compilation

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

A mixed-statute judgment retained because one of the two actual claims and holdings is under section 33 of the 1961 Act. The earlier-year claim is separately governed by amended 1922 section 10(2)(vi-b). The word machinery in an earlier depreciation provision is not treated as decisive of development rebate under an express transport-vehicle exclusion.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A.C. Gupta, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Indian Income-tax Act, 1922, section 10(2)(vi-b), and Income-tax Act, 1961, section 33(1)(a), applied to separate assessment years

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, section 10(2)(vi-b), second proviso; Indian Income-tax Act, 1922, section 66(1); Earlier section 10(2)(vi)/(vi-a), discussed through Mir Mohammad

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 5 PDF pages; SHA-256 e6278213ed1d2f150f75577a678b4ad0f691f42b50dc9b5dbbf9a377bb2f5541. Original bytes preserved. Reporter headnote at physical page 1/SCR 881 A-F, appellate metadata and counsel at F-G, Gupta judicial text starts at G-H and ends physical page 5/SCR 885 B with both appeals allowed, split reference answers and costs; reporter disposition follows. No neighbouring case.

Open cited source rendition

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; later treatment comprehensive: not_verified; current law status: not_verified; statutory mapping 2025: not_verified

Decision is dated 28 November 1974; 1975 is the SCR report year. The catalogue neutral-citation field 1974INSC255 is not printed or independently authenticated by this scan.

Judgment date 28 November 1974 differs from the 1975 SCR report year.; A.C. Gupta is author; catalogue starred Khanna entry is not authorship evidence.; The two appeals, two Acts, two years and oppositely framed questions must not be collapsed.; The actual scan prints accounting year ending 31 March 1952 beside AY 1962-63; no unverified repair to 1962 is made.; The headnote speaks of 1950 when Mir Mohammad was decided; the body identifies AY 1950-51 and the law as then in force, not a verified 1950 judgment date.; The final costs sentence prints one hearing free; source PDF is unchanged.; The present development-rebate exclusion does not overrule the separate machinery/depreciation holding under earlier text.; Later section 33 withdrawal and transitional continuance require historical checks; no blanket current effectiveness.

No.211 concerns AY 1961-62 under the 1922 Act; No.212 concerns AY 1962-63 under actual 1961 section 33. Physical page 2/SCR 882 F literally prints accounting year ending 31 March 1952 for the latter; that date is inconsistent with the repeatedly identified AY and is not silently rewritten as 1962.

Both appeals are identified in the judicial body and final disposition; catalogue lists only No.211.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk or present-law certification. Available official 2025 mapping-bundle provenance was inspected; no case-specific 2025 provision was read or relied on for a mapping.

LATER TREATMENT

Source checked 2026-10-05. not_verified. Bounded title/citation/web and retained-review-text searches on 5 October 2026 did not locate a later primary judicial source directly treating this 1974 holding. The negative is limited to the searched material; it is not a comprehensive citator result. Statutory changes are independently bounded as recorded above.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 5](#)

SHA-256: e6278213ed1d2f150f75577a678b4ad0f691f42b50dc9b5dbbf9a377bb2f5541

[official government hosted statutory compilation bounded - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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