

DAVENPORT & CO. PVT. LTD. v. COMMISSIONER OF INCOME-TAX, WEST BENGAL

Civil Appeal No. 2034 of 1970; Originating High Court proceedings: I.T.R. No. 60 of 1968
[1976] 1 SCR 180 | 1975-07-31

Mere transfer of delivery orders without actual delivery made these jute transactions speculative for the 1922 Act's loss rules. Commercial validity, constructive delivery and the absence of a wagering intention did not replace the tax definition's actual-delivery requirement.

3-judge bench | V.R. Krishna Iyer, J. | R.S. Sarkaria, J. | A.C. Gupta, J.

Specific tax definition and delivery facts

The case concerns delivery-order transactions under the 1922 Act. Commercial validity does not resolve tax classification; later statutory exceptions and distinct breach-damages issues require separate review.

Operative context: Indian Income-tax Act, 1922; 24(1), first proviso, 24(1), Explanations 1 and 2.

01 FACTS OF THE CASE

Davenport normally sold tea-garden tools and earned tea-selling commission. In 1958 it entered jute transactions for the first time, buying 1,100 bales of B-Twill and 2,500 bales of corn sacks and later selling the same quantities. The goods remained in mill godowns; Davenport had no godown, did not handle them and transferred only delivery orders.

Purchases cost Rs. 11,48,399 and sales realised Rs. 10,49,865, leaving Rs. 98,534 loss. The officer treated it as speculative, unavailable against ordinary business income because there were no speculative profits that year. The first appellate authority disagreed, but the Tribunal restored the officer's treatment and the High Court answered the classification question against the company.

Source: [SCR181G-182F](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 24(1)'s first proviso restricted speculative-business loss adjustment; Explanation 1 separated such business, and Explanation 2 defined transactions settled otherwise than by actual delivery or transfer of the commodity or scrips. The Court interpreted actual delivery as real delivery, as opposed to notional delivery.

The parties accepted that Raghunath Prasad Poddar favoured the company, but the Revenue sought reconsideration. The Court examined the authorities underlying that decision. Duni Chand concerned a jute-futures ordinance; Bayanna Bhimayya and Kolla Sreeramamurthy concerned sales-tax transactions and title. Their treatment of symbolic delivery or sequential sales answered different statutory questions and could not control this income-tax definition.

For this purpose, a transaction's speculative character in ordinary language or under the Contract Act was immaterial. A commercially valid sale could nevertheless be speculative for tax, and the tax label did not invalidate it. The Court approved D.M. Wadhwana's distinction between ordinary transactional validity and the special segregation of losses. It rejected the contrary approach in Raghunath Prasad Poddar and affirmed the classification on the actual facts.

Source: [SCR183A-187D](#)

03 JUDICIAL DECISION

The assessee's appeal was dismissed without an order as to costs. The affirmative reference answer stood: these transactions were speculative under Explanation 2, so the loss could not reduce ordinary business profits.

Source: [SCR187C-D](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee appeal dismissed. Result: Revenue. Costs: No order as to costs. Scope: Speculative classification and restricted adjustment upheld. Limit: Delivery-order transactions without actual delivery; 1922 definition.

Source: [SCR187C-D](#)

05 AKHB REVIEW POINT

Trace delivery of the goods, not merely endorsements, invoices or title documents. Identify the applicable statutory exceptions and distinguish settlement of the contract from later payment of damages for its breach. This judgment's delivery-order facts do not decide every commercial settlement or automatically classify modern exchange-traded transactions.

Source: [SCR182A-C;186C-187D](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

8-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 printed primary caption is Davenport; later citations may spell Devenport and must not alter this identity. A sentence at SCR 186G is visibly corrupted by repetition; the coherent headnote at 181A-C and approved reasoning at 187A-D establish the limited tax-classification point. Judgment 31 July 1975 is reported in 1976.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 24(1), first proviso, 24(1), Explanations 1 and 2.

The checked 2011 section 43(5) retains the actual-delivery formulation but includes specified exceptions; section 73 supplies separate speculation-loss restrictions. Neither later text justifies ignoring exceptions or treating damages after breach as necessarily settlement of a contract.

Selected 2025/FA 2026 sections 66(31) and 66(33) retain an actual-delivery test with specified exclusions, including qualifying derivatives. Section 113 separately regulates speculation losses. Shantilal's breach-damages distinction and the applicable exceptions remain material; the historical delivery-order result is not universal.

Section 1(3) commenced the 2025 Act on 1 April 2026, subject to exceptions. Section 536 preserves prior operation, rights and liabilities and the 1961 procedure for specified earlier-year and pending proceedings. Determine the governing year and savings before using any comparison.

Related-section tags are research navigation only. They are not provisions decided in this judgment or verified mappings beyond any expressly bounded comparison below.

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

LATER TREATMENT

Source checked 2026-10-07. Commissioner of Income-Tax v Shantilal Private Limited (Supreme Court of India, 1983-07-21), operative discussion at SCR pages 473-474: Distinguishes damages awarded for breach from settlement of a contract and expressly says the issue did not arise in Devenport. It does not overrule Devenport's actual-delivery holding.

Bounded later use is recorded below. No claim of exhaustive research, absence of contrary treatment or current-law certification is made.

IDENTIFIED SOURCE LINKS

[Commissioner of Income-Tax v Shantilal Private Limited \(1983-07-21\), nonofficial judicial text reproduction](#)

operative discussion at SCR pages 473-474 Third-party public judicial text via web extraction; no court-original image validation; apparent OCR/typesetting anomalies preserved; link markup removed only in passage file; bounded passage only, not full later judgment.

[Income-tax Act, 1961, supplied DOR 2011 compilation](#)

Section 43(5), physical 315-316; section 73, physical 417. Selected extracted text only; not present-day 1961 consolidation or source-image verification.

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

Section 66 heading, physical 117, lines 4782-4783; clauses (31), (33), physical 120-121, lines 4907-4949; section 113, physical 172-173, lines 7072-7096. Selected official web-extracted text only; not full Act/raw-PDF/image/all-amendments verification. Physical pages are one-based; underlying web P indexes are zero-based.

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

Section 66 heading, physical 117, lines 4782-4783; clauses (31),(33), physical 120-121, lines 4907-4949; section 113, physical 172-173, lines 7072-7096.

[2025 Act commencement and savings, selected FA 2026 text](#)

Section 1(3), physical 1, lines 0-13; section 536(2)(a)-(e), physical 584-585, 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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