

COMMISSIONER OF INCOME TAX, WEST BENGAL v. TOLLYGUNGE CLUB LTD.

Civil Appeal No. 578 of 1972; Originating High Court proceedings: Income Tax Reference No. 71/65

[1977] 3 SCR 225 | 1977-03-15

The club's separate charity surcharge never became its income: payments were impressed from receipt with an enforceable obligation to apply them to local charities. Compulsory payment as a condition of admission did not itself make the surcharge admission-price income.

2-judge bench | P.N. Bhagwati, J. | S. Murtaza Fazal Ali, J.

01 FACTS OF THE CASE

Tollygunge Club, a company limited by guarantee, conducted amateur horse races. Its admission fees were accepted as taxable trading receipts. A 1945 general-meeting resolution added an eight-annas surcharge for the Red Cross; a 1950 resolution extended the destination to local charities. Entrants received a separate surcharge ticket, and the collections went directly to a charity account. Their actual distribution to local charities was undisputed.

For 1960-61 the Income-tax Officer included the surcharge as income, allowing section 15B rebate on charitable payments. The first appellate authority considered mandatory payment part of the admission price. The Tribunal excluded it, and the Calcutta High Court agreed that the obligation attached before receipt as the club's income.

Source: [SCR226F-228D](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court began with the character of the receipt: every sum physically received is not necessarily the recipient's income. Whether payment was compulsory did not settle what it was paid for. Admission supplied the occasion for the surcharge; the separate payment was for charity, rather than consideration for admission.

A resolution merely deciding to spend part of the club's own admission receipts on charity would have remained revocable and would not, by itself, impose a trust. Here, however, racegoers paid and the club received the separate surcharge for the specified charitable purpose. The payers thereby imposed an obligation in the nature of a trust. Technical trust language was unnecessary where the independent purpose and obligation were sufficiently clear.

Applying *Sitaldas Tirathdas*, the Court distinguished diversion before income reached the assessee from an obligation discharged out of income already received. *Thakar Das Bhargava* was consistent with that distinction: the advocate there voluntarily settled his own professional fees, whereas these surcharge payments were earmarked from the outset.

Source: [SCR228E-230H;231A-232D](#)

03 JUDICIAL DECISION

The Revenue's appeal was dismissed with costs. The High Court's answer for the club stood, excluding the charity surcharge from taxable income for 1960-61.

Source: [SCR232D](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue appeal dismissed with costs. Result: Assessee club. Costs: Appeal dismissed with costs. Scope: Separate charity surcharge excluded as never being club income. Limit: Binding obligation accompanying the payers' earmarked payments.

Source: [SCR232D](#)

05 AKHB REVIEW POINT

Preserve the collection terms, payer notice, separate receipts and governing resolution as evidence of the obligation at inception. Separate accounting and later charitable spending support the facts but do not alone create diversion. Ask whether the recipient could lawfully use the money for itself; avoid recasting ordinary donated trading income as excluded receipts.

Source: [SCR227A-C;229E-230H](#)

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 source concerns the 1922 Act and does not adjudicate statutory charitable-exemption registration. Section 15B appears because the assessing officer gave rebate after inclusion, an approach reversed when the receipt itself was excluded.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 15B, 66A(2).

The checked 2011 section 5 supplies only a general income-scope comparison. The source decision excludes the surcharge because the binding obligation prevented it becoming club income; section 15B rebate or later charitable exemptions are distinct questions.

Selected 2025/FA 2026 sections 5 and 26(1), (2)(a) provide general income and business-charge context only. The historical case's payer-imposed obligation must be established on present facts; these cross-references alone establish no charitable exemption.

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 Bijli Cotton Mills (P) Ltd. (Supreme Court of India, 1978-11-07), SCR pages 254–256, operative discussion: Treats Tollygunge as governing the compulsory-levy issue and applies its occasion-versus-consideration reasoning to earmarked Dharmada receipts. Affirmative later application in the specific charitable-receipt setting.

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 Bijli Cotton Mills \(P\) Ltd. \(1978-11-07\), nonofficial judicial text reproduction](#)

SCR pages 254–256, operative discussion 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 5, physical 72–73. Selected extracted text only; not present-day 1961 consolidation or source-image verification.

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

Section 5, physical 27, lines 1057–1082; section 26(1), (2)(a), physical 55–56, lines 2190–2194. 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.

[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 AKBH Review Point is editorial analysis, not part of the Court's judgment.

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