

COMMISSIONER OF INCOME-TAX, WEST BENGAL-II, CALCUTTA v. KALYANJI MAVJI & COMPANY

Civil Appeal No. 2098 of 1972; originating High Court reference: Income Tax Reference No. 109/65

[1980] 2 SCR 758 | 1980-01-14

Restoring a temporarily requisitioned colliery within a continuing coal business, without creating a new asset or enduring capital advantage, was revenue expenditure. Even assuming the work was not 'current repairs', the residual business-expenditure provision remained available.

2-judge bench | N. L. Untwalia, J. | R. S. Pathak, J.

Restoration must remain revenue in character

This is the 1980 colliery-expenditure case, not the separate Kalyanji Mavji reopening precedent. It assumes the work may fall outside current repairs and permits residual consideration, while retaining the bar on capital expenditure.

Operative context: Indian Income-tax Act, 1922; historical sections 10(2)(v), 10(2)(xv), 66A(2).

01 FACTS OF THE CASE

Kalyanji Mavji owned several collieries. The South Samla Colliery was occupied for military use from 1942 until 1955; other collieries and the coal business continued operating. Rent, minimum royalty and watch-and-ward expenditure on the occupied colliery had been allowed as business expenses during that period.

For assessment year 1959-60, the firm claimed Rs.1,61,742 spent renovating buildings, reconditioning machinery and clearing accumulated debris so mining could resume. This comprised Rs.66,937 in staff and labour costs and Rs.94,805 in stores and repairs. Mining had not actually resumed during the relevant year. The tax authorities and Tribunal treated the expenditure as capital; the Calcutta High Court held it revenue, looking at the continuing business as a whole.

Source: [SCR 760 D-761 H](#)

02 DISCUSSION BY THE HON'BLE COURT

Revenue first challenged the High Court's use of the facts. The Supreme Court rejected that objection because the facts were admitted or found by the tax authorities; the High Court had not improperly substituted a fresh factual account.

Revenue next said that the specific allowance for current repairs in section 10(2)(v) excluded resort to section 10(2)(xv). The Court assumed, without deciding, that the work did not constitute current repairs. That assumption did not end the inquiry. The specific clause covered current repairs; its language did not expressly or necessarily prohibit deduction of other revenue repairs under ordinary commercial principles or the residual clause.

The residual provision still excluded capital expenditure. Here the requisition had temporarily suspended one production unit within an existing business; it had not transferred ownership or terminated the business. The work removed the impediments to resumed production and restored the colliery's working condition. No new asset or enduring capital advantage was acquired. Actual mining during the expenditure year was unnecessary on these facts. The earlier allowance of preservation expenses also evidenced the colliery's place in the continuing business.

Source: [SCR 762 B-764 E](#)

03 JUDICIAL DECISION

The Supreme Court upheld the High Court's conclusion that the restoration expenditure formed part of the profit-earning process and was revenue expenditure deductible under section 10(2)(xv). Revenue's appeal was dismissed. The Court did not hold that all accumulated repairs are current repairs or that capital replacement costs can be routed through a general deduction clause.

Source: [SCR 764 C-E](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal dismissed; High Court's revenue-expenditure answer upheld. Result: Assessee. Costs: Appeal dismissed with costs. Scope: Deductibility under the residual provision finally decided. Limit: Continuing business, temporary suspension and restoration without new asset; current-repairs classification assumed rather than decided.

Source: [SCR 764 E](#)

05 AKHB REVIEW POINT

Document continuity across the business, the reason for inactivity, the assets retained, and the physical effect of each item of work. Separate restoration from acquisition or replacement. Plead an available residual deduction distinctly if the specific current-repairs test is not satisfied, while establishing revenue character independently. Later statutory language and the relevant assessment year matter; neither inactivity alone nor describing work as repairs settles the issue.

Source: [SCR 761 F-H; 762 E-764 E](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

7-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 primary judicial pages show South Samla; OCR sometimes renders it Samia. Section 10(2)(v) was considered in determining the availability of section 10(2)(xv), not as the basis on which the deduction was ultimately allowed.

STATUTORY SCOPE

Indian Income-tax Act, 1922, section 10(2)(v), section 10(2)(xv), section 66A(2).

Section 37(1) is the related residual deduction provision, with its own exclusions and later Explanations. The checked official text is labelled 2025, not the operative historical text for this appeal. Section 31(i) is a distinct current-repairs inquiry; Saravana Spinning Mills paragraphs 11-14 were checked for the 1992-94 setting, not as a complete current amendment history.

Section 34(1)-(3), official version labelled 2026, is a related general-deduction framework. Its exclusions require separate application; this historical decision did not construe it.

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

LATER TREATMENT

Source checked 2026-10-06. Indian Ginning & Pressing Co. Ltd. v. CIT, Gujarat High Court, 14 August 2001, discussed Kalyanji at paragraphs 8-9 and applied the distinction between current repairs and revenue expenditure under section 37 to existing business premises and a borewell.

Verified paragraphs 8-15 of Indian Ginning in a judicial HTML reproduction. Also checked the separate current-repairs framework in Saravana Spinning Mills, 10 August 2007, paragraphs 11-14; it was not an identified direct citation of Kalyanji and is not presented as one. No exhaustive citator review is claimed.

IDENTIFIED SOURCE LINKS

Indian Ginning & Pressing Co. Ltd. v. CIT (2001-08-14), nonofficial HTML judicial reproduction

Judicial paragraphs 8-15, HTML lines 68-92, with preceding facts/arguments read for context. The reproduction mistakenly says cleaning tubewells when describing Kalyanji; primary Kalyanji says clearing debris, so that later description is not imported.

1961 Act section 37(1) and Explanations 1-3, official version labelled 2025

1961 Act section 37(1) and Explanations 1-3, official version labelled 2025; web-indexed complete provision read, direct open failed.

2025 Act section 34(1)-(3), official version labelled 2026

2025 Act section 34(1)-(3), official version labelled 2026; bounded official text read.

CIT v. Saravana Spinning Mills (P) Ltd. (2007-08-10), nonofficial HTML judicial reproduction

Paragraphs 11-14 on section 31(i) current repairs and separate section 37 inquiry, with preceding factory facts; historical accounting years ending 31 March 1993 and 1994. Not claimed as a direct citation of Kalyanji. HTML judicial reproduction only.

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