

Liquidator of Mahamudabad Properties (P) Ltd. v. Commissioner of Income Tax, West Bengal II, Calcutta

Civil Appeal No. 2183 of 1972

[1980] 3 SCR 428 | 1980-04-09

Whether the assessee could claim municipal-tax deductions and vacancy remission for a property unlet throughout the relevant previous year under the provisions then applicable, and how the annual-value issue could arise within its own reference when the Revenue had sought no separate reference.

22 (income from house property) | 23(1), then proviso (municipal-tax deduction) | 24(1)(ii) (then insurance-premium deduction) | 24(1)(ix) (then vacancy remission) | 22–26 (house-property computation framework) | 260 (reference implementation, quoted in the High Court disposition)

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

Assessment years: 1962-63

Historical deductions and a limited advisory reference

This decision applies the provisions for AY 1962-63, including the old tenant-occupation condition for municipal taxes and old section 24(1)(ix) vacancy remission. Later statutory text is materially different. Annual value arose only within the assessee's deduction reference; the Revenue had no independent reference, and the High Court could not itself set aside the Tribunal's order. The decision does not establish an automatic annual value for every vacant or dilapidated property. Comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

The assessee company owned 3, Gun Foundry Road, which had housed a jute-baling press. The West Bengal Government requisitioned it in 1951 and released it on 26 December 1960 after use for housing refugees. The building was in disrepair when possession returned. For AY 1962-63, corresponding to calendar year 1961, the assessee declared an annual value of Rs.1,23,672 but sought remission of the whole amount because the property remained vacant throughout that previous year. It also claimed insurance-premium and municipal-tax deductions (physical page 4/SCR 431 B–E).

The Income-tax Officer treated the uninhabitable property as outside the house-property computation provisions and ignored both annual value and the claims. The Appellate Assistant Commissioner brought the property into the computation and allowed the deductions; the Tribunal restored the Officer's position. Only the assessee sought a reference. The Calcutta High Court held that disrepair did not eliminate annual value, allowed Rs.689 of fire-insurance premium, and rejected municipal-tax deduction and vacancy remission. The assessee appealed from the High Court judgment of 28 July 1970 in Income Tax Reference No.45 of 1969 (physical pages 3–5 and 9).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first construed the question actually referred. The assessee's claim to deductions depended on the property coming within section 22, so its own reference necessarily raised annual value to that extent. If a deduction was otherwise allowable, the annual-value foundation could be determined even though the Revenue had sought no reference; this might leave a substantial taxable net value. But the Revenue could not demand an independent annual-value determination if all deduction claims failed. For that independent relief it should have requested its own reference (physical pages 6–8/SCR 433–435). This is a limit tied to the referred question, not a reopening power or a general licence to enhance an assessment.

The Court also corrected the High Court's statement that it was setting aside part of the Tribunal's order. Reference jurisdiction was advisory: the High Court answered the legal question and the Tribunal then disposed of the appeal conformably with that answer. The High Court did not itself modify or set aside the Tribunal's appellate order (physical page 8/SCR 435 F–H).

On the remaining deduction issues, the then proviso to section 23(1) required the property to be occupied by a tenant. This property was not, and the assessee invoked no other provision for municipal taxes. The Court therefore upheld that denial. Historical section 24(1)(ix) addressed property let during the relevant previous year and vacant during part of that year. It did not apply to this property, which was unlet throughout the year; the record did not even show that the assessee had offered it for letting. Computation provisions generally operate with reference to the relevant previous year unless the context requires otherwise. The wider observation in the cited Darbhanga case was treated as obiter, and its 1922 statutory text was materially different (physical pages 9–11/SCR 436–438).

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

03 JUDICIAL DECISION

The appeal was dismissed with no order as to costs. The denial of municipal-tax deduction and vacancy remission stood. The insurance-premium allowance was not overturned, and the annual-value reasoning was confined to the reference's proper scope; the High Court's purported setting-aside of the Tribunal's order was identified as jurisdictionally incorrect (physical pages 8–11).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the assessee's appeal; insurance allowance left intact and reference jurisdiction expressly limited

Civil Appeal No.2183 of 1972 dismissed; no order as to costs

Final reasoned holding on the then municipal-tax/vacancy provisions and the scope of advisory reference jurisdiction

No independent Revenue reference, no reopening issue and no universal annual-value valuation rule. Rs.1,23,672 was the assessee's returned annual value, not a newly fixed Supreme Court valuation. Historical deduction provisions must not be presented as current law.

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

05 AKHB REVIEW POINT

Separate the deduction claim, its necessary annual-value foundation, and the procedural power to decide either. Here the assessee's own deduction reference exposed it to the annual-value computation needed to support an allowable insurance deduction. That did not give the Revenue an unrestricted substitute for a reference it had never sought, and it did not turn the High Court into an appellate court over the Tribunal.

For a later assessment, verify the applicable statutory version before using the vacancy or municipal-tax reasoning. A bounded comparison with the government-hosted 2011 compilation shows materially different section 23 vacancy and tax provisions and a restructured section 24 (physical pages 195–200). That comparison supports the historical warning; it does not certify present law or resolve later cases.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, actual date and corrected appeal number

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 428 heading; 430 G

Source role: reported metadata and judicial text

2.

Topic: Property history, assessment year and returned value

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: SCR 431 B–H

Source role: judicial text

3.

Topic: Reference question and High Court disposition

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 432 A–G

Source role: judicial text

4.

Topic: Dependency of annual value on deductions and absence of Revenue reference

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: SCR 433 F–435 F

Source role: judicial text

5.

Topic: High Court advisory role; no power to set aside Tribunal order

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: SCR 435 F–H

Source role: judicial text

6.

Topic: Insurance allowance and historical municipal-tax condition

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: SCR 436 A–H

Source role: judicial text

7.

Topic: Historical vacancy provision, record limit and distinguished 1922 precedent

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: SCR 437 A–438 B

Source role: judicial text

8.

Topic: Dismissal and no costs

Source url: [Open cited source](#)

Pdf pages: 11

Paragraphs: SCR 438 B–C

Source role: judicial text

9.

Topic: Bounded later statutory comparison, not present-law certification

Source url: [Open cited source](#)

Pdf pages: 195; 196; 197; 198; 199; 200

Paragraphs: Displayed sections 22–24; separately identified editorial historical text/footnotes 45 and 49

Source role: bounded later statutory comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R.S. Pathak, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (historical house-property deductions and reference jurisdiction)

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, section 9(1), paragraph 7: considered only through the materially different Darbhanga precedent

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 11 PDF pages; SHA-256

a01b90b4560c921b7a7883cba05573a0cb38f4e99515697a87ccee6b0b370d35. Original bytes preserved.

Unnumbered judicial body begins physical page 4/SCR 431 A and ends physical page 11/SCR 438 C. Pages 1–3 and opening lines of page 4 contain editorial headnotes/appellate metadata. No neighbouring judgment.

[Open cited source rendition](#)

Original report heading confirms 9 April 1980. The appellate metadata at physical page 3 reads Civil Appeal No.2183 of 1972; catalogue 2138 is not adopted.; The Court's quoted vacancy provision is section 24(1)(ix). Some discussion and headnote lines print section 24(2)(ix); these apparent internal slips are not adopted as a separate provision.; Rs.1,23,672 is the annual value stated in the assessee's return. The Court did not independently fix that quantum for every dilapidated property.; The insurance-premium allowance of Rs.689 is stated at physical page 9. The contested municipal-tax and vacancy claims must not be conflated with that surviving allowance.; The Revenue could not seek annual value as an independent question without its own reference; annual value could arise as the necessary foundation for an otherwise allowable deduction in the assessee's reference.; The reference was advisory. The Court expressly corrected the High Court's purported setting-aside of the Tribunal order while dismissing the appeal.; The later compilation is not current-law certification, and its editorial substitution history is not treated as an independently verified amending-Gazette chain.

The judicial body expressly identifies AY 1962-63 and the calendar year 1961 as the relevant previous year (physical page 4/SCR 431 C–D). Actual 1961 provisions are applied; no separate transition ruling is inferred.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. Identify the applicable statutory version and procedural route separately.

LATER TREATMENT

Source checked 2026-10-04. not verified. Bounded later statutory comparison only: Department of Revenue-hosted 2011 compilation, physical pages 195–200, with statutory text separated from editorial history. No later judicial decision is relied on, no comprehensive citation-history review was completed, and no current-law or 2025 mapping is asserted.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 11](#)

SHA-256: a01b90b4560c921b7a7883cba05573a0cb38f4e99515697a87ccee6b0b370d35

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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