

Commissioner of Income Tax, Bangalore Etc. Etc. v. B. C. Srinivasa Setty, Etc. Etc.

Civil Appeal No. 1146 of 1975 / Civil Appeal No. 1378 of 1976 / Civil Appeal No. 926 of 1973

[1981] 2 SCR 938 | 1981-02-19

Whether transfer of goodwill generated in a newly commenced business could produce a taxable capital gain when the historical capital-gains computation provisions could not supply its cost or date of acquisition.

2(14) | 45 | 48

Three-judge bench | P. N. Bhagwati, J. | V. D. Tulzapurkar, J. | R. S. Pathak, J.

Assessment years: 1966-67

Historical goodwill holding; later section 55 changes

Do not present this 1981 result as a present-day exemption for self-generated goodwill. The separately checked Finance Act 1987 changes to section 55, effective 1 April 1988, supplied goodwill cost rules including nil cost in specified cases. Check the applicable year and complete statute.

[Specified statutory source and temporal limits](#)

01 FACTS OF THE CASE

The leading assessee was a registered firm manufacturing and selling agarbattis. Its partnership instruments of 28 July 1954 and 31 March 1964 left goodwill unvalued until dissolution. The judicial facts record dissolution by deed dated 1 December 1965, goodwill valued at Rs. 1,50,000, and a new partnership under an instrument dated 2 December 1965 taking over all assets, including goodwill, and liabilities. The editorial headnote instead prints 31 December 1965 as the dissolution date; this note follows the judicial narrative and discloses that conflict (physical page 4, printed SCR page 941; headnote on physical page 1).

For assessment year 1966-67, the Income-tax Officer did not include any gain on the goodwill transfer. The Commissioner invoked revision and directed a fresh assessment including that gain. The Tribunal accepted the assessee's case that section 45 did not apply; the Karnataka High Court answered the referred question in the assessee's favour. Civil Appeal No. 1378 of 1976 concerned the same High Court's following decision. Civil Appeal No. 926 of 1973 concerned a similar Kerala High Court result under section 12B of the 1922 Act (physical pages 4-5, SCR pages 941-942).

Source: [reported judgment](#) / [paragraphs Unnumbered factual/procedural opening](#) / [PDF pages 4, 5](#) / [judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court recognised the breadth of property within section 2(14), but read that definition subject to its contextual qualification. Goodwill was an asset of the business; the decisive question was whether self-generated goodwill of this kind was an asset within the historical charge and computation scheme. It arose gradually from reputation, business connections and numerous changing influences, rather than from an identifiable acquisition event. Its ingredients could not be assigned an acquisition cost, and the point at which it came into existence could not be fixed (physical pages 5-7, SCR pages 942-944).

Section 45 and the accompanying computation provisions formed an integrated code. The Court distinguished ordinary questions about construing a computation provision from the more fundamental situation in which those provisions could not operate at all. It inferred that a transaction for which the statutory computation machinery was wholly inapplicable was outside the intended charge (physical page 7, SCR page 944).

Section 48's deduction of acquisition cost contemplated an asset of a kind for which a cost could be envisaged. That was different from an asset acquired without payment in a particular transaction: section 49 could supply cost in such a case. For goodwill initially generated in a business, the historical provisions supplied neither an identifiable acquisition cost nor an acquisition date. Charging the whole receipt would therefore tax the asset's capital value, rather than an ascertainable profit or gain. Sections 49, 50 and 55(2) reinforced the role of acquisition cost and date; section 55(3) could not resolve the difficulty when the previous owner's acquisition date also remained unknown (physical pages 8-9, SCR pages 945-946).

The Court accepted the line of High Court reasoning against taxing such self-generated goodwill under that scheme and rejected the contrary approach of treating its cost as nil and charging the entire sale receipt. Its conclusion concerned goodwill generated in a newly commenced business under the law then applicable, rather than a denial that goodwill was property or a rule that every asset obtained without monetary payment escaped capital-gains tax (physical pages 8-9, SCR pages 945-946).

Source: [reported judgment / paragraphs Unnumbered judicial reasons / PDF pages 5, 6, 7, 8, 9 / judgment](#)

03 JUDICIAL DECISION

Civil Appeal Nos. 1146(T) of 1975 and 1378 of 1976 were dismissed. Civil Appeal No. 926 of 1973 was also dismissed because the relevant section 12B provisions of the 1922 Act were substantially similar. All appeals were dismissed with costs. The transfer of the self-generated goodwill considered did not attract capital-gains tax under the historical statutory scheme (physical pages 9-10, SCR pages 946-947).

Source: [reported judgment / paragraphs Final unnumbered merits and dispositive passages / PDF pages 9, 10 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee; Revenue appeals dismissed

All three civil appeals dismissed with costs

Historical capital-gains charge and computation issue decided on merits

The holding concerns goodwill initially generated in a business under the then-applicable computation scheme. It does not decide later amended section 55 or every asset acquired without payment.

Source: [reported judgment / paragraphs Dismissal of the three appeals and costs / PDF pages 9, 10 / judgment](#)

05 AKHB REVIEW POINT

Separate three questions: whether an item is property, whether a transfer falls within the charge for the relevant year, and whether the applicable statute supplies the computation inputs. This judgment turns on the third question's relationship to the charge. It does not equate absence of payment with legal impossibility of computing cost: the Court expressly distinguished section 49 cases.

Historical-law warning: the Finance Act, 1987 subsequently changed section 55 for business goodwill, effective 1 April 1988. The checked historical text specifies purchase price for purchased goodwill and nil acquisition cost in other cases, plus nil improvement cost. Those deeming provisions materially change the premise for a later-year goodwill analysis. Verify the relevant year's complete statute and asset category before using Setty; this limited amendment check is not a comprehensive statement of current law. The Court's own judgment remains unchanged.

Source: [reported judgment / paragraphs Integrated code; distinction from section 49; historical goodwill conclusion / PDF pages 7, 8, 9 / judgment; bounded later statutory web source / / later statutory compilation](#)

DETAILED DISPOSITION AND CONNECTED GROUPS**Connected appeal scope**

1.

Case number: Civil Appeal Nos. 1146 of 1975 and 1378 of 1976

Act: Income-tax Act, 1961

Result: Dismissed

2.

Case number: Civil Appeal No. 926 of 1973

Act: Indian Income-tax Act, 1922

Section: 12B

Result: Dismissed on substantial similarity of the relevant statutory provisions

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

49(1); 50; 55(2); 55(3)

OTHER PROVISIONS CONSIDERED

Indian Income-tax Act, 1922: section 12B, separately applied in Civil Appeal No. 926 of 1973; Finance Act, 1987: later goodwill cost amendment to section 55, addressed only in the bounded statutory check

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 2(14); 45; 48

Role: principal charge, definition and computation provisions

Basis: Contextual scope of capital asset and inability of the historical computation machinery to operate for self-generated goodwill.

2.

Act: Income-tax Act, 1961

Section: 49(1); 50; 55(2); 55(3)

Role: supporting computational context

Basis: Previous-owner cost, acquisition date and the absence of a workable historical substitute.

3.

Act: Indian Income-tax Act, 1922

Section: 12B

Role: principal provision in connected Civil Appeal No. 926 of 1973

Basis: The Court applies the same result because the relevant provisions are substantially similar.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R. S. Pathak, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY CHECKS AND THEIR LIMITS

1.

Relationship: later goodwill cost deeming provisions

Source url: [Open cited source](#)

Verified effect: The official departmental historical section 55 page specifies purchase-price acquisition cost for goodwill bought from a previous owner, nil acquisition cost in other cases, and nil improvement cost for business goodwill. Amendment footnotes 82 and 85 identify the Finance Act, 1987 changes as effective 1 April 1988.

Pinpoint: Section 55(1)(b)(1), section 55(2)(a)(i)-(ii), footnotes 82 and 85; page labelled Year 1987

Scope: Only these historical goodwill changes checked. Later expansions, later judicial decisions and the complete current statutory regime have not been audited.

SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256

0f7a858d69b7c7a1aeaccd9b67bca0ba0c65d6b9faae612e0febff721234cdbf. Original bytes preserved.

Unnumbered judicial text on physical PDF pages 4-10 (printed SCR pages 941-947), beginning with the judgment delivered by Pathak, J. on page 4 and ending with dismissal with costs on page 10. Pages 1-3 contain reported metadata, editorial headnote, references and proceedings. No adjacent judgment within these boundaries.

Open cited source rendition

No numbered judicial paragraphs appear in this reported rendition. Pinpoints use physical PDF pages and printed SCR pages; paragraph numbers from other renditions must not be imported.

The headnote on physical page 1 prints dissolution on 31 December 1965; the judicial narrative on page 4 prints 1 December 1965 followed by a new partnership on 2 December 1965. The note follows the judicial narrative without silently rewriting the headnote.

Physical page 9 footnote (7), and the headnote reference on page 3, print the Mohanbhai Pamabhai citation as [1978] 91 ITR 393. This source citation has not been bibliographically normalised or independently verified; no corrected year is silently substituted.

The proceedings list Civil Appeal No. 1146 of 1975; the operative passage on physical page 9 adds the suffix (T). Both refer to the same leading appeal in this rendition.

The leading assessment year is 1966-67; it is not imputed to the connected appeals.

The later section 55 check is statutory and bounded. No comprehensive subsequent judicial treatment or current-law audit has been performed.

SCR citation verified on the reported rendition. No neutral citation inferred from catalogue metadata.

Assessment year 1966-67 is expressly stated for the leading dissolved-firm assessment. Separate assessment years for Civil Appeal Nos. 1378 of 1976 and 926 of 1973 are not stated in the bounded judgment. The last appeal concerns section 12B of the 1922 Act.

STATUTORY SCOPE

Historical sections 2(14), 45, 48, 49, 50 and 55 as discussed in the 19 February 1981 judgment; section 12B of the 1922 Act for the separately identified connected appeal. Later section 55 goodwill changes are recorded separately.

No automatic Income-tax Act, 2025 crosswalk or comprehensive later-law/current compliance certification.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, reviews, stays, reversals and later judicial treatment have not been comprehensively checked. Any separately identified bounded statutory check is not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 10](#)

SHA-256: 0f7a858d69b7c7a1aeaccd9b67bca0ba0c65d6b9faae612e0febff721234cdbf

[bounded later statutory web source](#)

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