

Commissioner of Income Tax, Calcutta v. Dalhousie Properties Ltd.

Special Leave Petition (Civil) No. 3786 of 1982

[1985] 1 SCR 613 | 1984-08-23

Under the proviso to section 23(1) applicable to AY 1966-67, did municipal taxes borne by the owner mean the owner's liability under the levy in force, or only sums actually paid, and did a pending challenge to the levy prevent deduction?

22 (income from house property) | 23(1), proviso as applicable to AY 1966-67 (municipal-tax deduction in determining annual value) | 256(1) (reference route)

Two-judge bench | E.S. Venkataramiah, J. | V. Balakrishna Eradi, J.

Assessment years: 1966-67

AY 1966-67 wording only; later payment conditions differ

This reasoned SLP dismissal concerns the section 23(1) proviso applicable to AY 1966-67. It allowed the owner's qualifying municipal-tax liability under the levy in force despite non-payment and a pending challenge; it did not permit deduction of tenant-borne taxes. A later statutory version displayed in the 2011 compilation expressly requires actual payment. Do not apply the historical holding to later years without checking their text. Comprehensive later treatment, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

Dalhousie Properties owned extensive rented properties. For AY 1966-67, previous year ended 31 March 1966, it claimed Rs.1,78,784 for municipal taxes levied by the Corporation of Calcutta in computing house-property income. The liability had recently been enhanced, the assessee disputed its extent before the Corporation, and the full amount had not been paid (physical page 2/SCR 614 D-F).

The Tribunal allowed the whole stated liability under the relevant section 23(1) proviso despite the dispute and non-payment. On a section 256(1) reference the Calcutta High Court answered in the assessee's favour. The Commissioner's Article 136 petition challenged the High Court decision of 21 April 1978 in Income Tax Reference No. 573 of 1971 (physical pages 2-3).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court confined the controversy to the meaning of the owner bearing the tax in the statutory version governing AY 1966-67. It reproduced that version and explained the then notional annual-value method: determine the sum for which the property might reasonably be expected to let, deduct the qualifying local taxes borne by the owner to the extent allowed by the proviso, and tax the balance subject to the Act. Tax which the tenant had undertaken to bear could not be deducted by the owner. The Court itself observed that the old proviso was unhappily worded and had since been modified (physical pages 3–4).

In this context, bearing the tax meant the liability the owner was responsible to discharge, rather than only the amount already paid. Since annual value was a notional figure, it should not fluctuate with each payment towards an existing tax liability during the year. The Court distinguished such payment fluctuations from a modification of the tax liability itself by the local authority (physical pages 4–5).

Nor did the pending dispute defeat the deduction. An expectation of succeeding in a challenge to the local levy did not remove the statutory deduction calculated on the levy then in force. Actual payment of the claimed liability was unnecessary under this historical provision (physical page 5). This was a section 23 annual-value computation ruling, not a section 43B ruling or a general permission to deduct every unpaid tax.

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

03 JUDICIAL DECISION

The Court held the High Court right and dismissed Special Leave Petition (Civil) No. 3786 of 1982. The full Rs.1,78,784 deduction under the governing section 23(1) proviso therefore stood. The reported dispositive order contains no express costs direction (physical page 5/SCR 617 C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue's Special Leave Petition (Civil) No. 3786 of 1982 dismissed by a reasoned decision; no express costs order reported

Reasoned statutory interpretation at special-leave stage affirming the deduction under the AY 1966-67 provision; no grant of leave or civil-appeal disposition is recorded

Owner-borne municipal-tax liability under the precise historical section 23(1) proviso; tenant-borne taxes and later actual-payment statutory versions require separate treatment.

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

05 AKHB REVIEW POINT

Match the deduction to the assessment-year text before using this decision. The question here was liability versus payment under the AY 1966-67 annual-value proviso; it was not a timeless rule for municipal-tax deductions. Identify who bore the tax, whether the levy was in force and whether the liability itself had been altered.

A bounded check of the government-hosted 2011 compilation, physical pages 195–197, shows a later section 23(1) proviso expressly using the year of actual payment; its older-version material appears separately in an editorial history footnote. That contrast prevents carrying this historical liability-based holding mechanically into a later year. The compilation is neither current-law certification nor a complete verification of the intervening amendment chain.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Reported date, petition identity and judicial opening

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 613 heading; 614 B–C

Source role: reported metadata and judicial text

2.

Topic: Assessment year, previous year and exact deduction

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: SCR 614 D–615 C

Source role: judicial text

3.

Topic: Precise historical text and owner/tenant qualification

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 615 D–616 C

Source role: judicial text

4.

Topic: Liability rather than payment and stable annual-value rationale

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 616 D–617 B

Source role: judicial text

5.

Topic: Contested levy, dismissal and absence of express costs direction

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 617 B–C

Source role: judicial text

6.

Topic: Bounded later actual-payment comparison

Source url: [Open cited source](#)

Pdf pages: 195; 196; 197

Paragraphs: Section 23(1) proviso at page 197; separate amendment-history footnote 45 across pages 195–197

Source role: bounded later statutory comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

E.S. Venkataramiah, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (section 23(1) proviso as applicable to AY 1966-67)

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Constitution of India: Article 136

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256

efff2af3ab6ddb60f28152fa463d1486e54cd0af00ae3da2c3. Original bytes preserved.

Unnumbered judicial body begins physical page 2/SCR 614 C and ends page 5/SCR 617 C. Page 1 and opening page 2 are editorial headnotes, followed by appellate metadata. No neighbouring judgment.

[Open cited source rendition](#)

The original appellate metadata and judicial opening identify SLP (Civil) 3786/1982; the catalogue's civil-appeal label is not adopted. This is a reasoned special-leave dismissal.; The governing year is expressly AY 1966-67; the Court acknowledges that the wording had subsequently changed.; The original quotation contains awkward wording and an apparent printed word error. The note follows the Court's express explanation of the owner's liability and the exclusion of tenant-borne tax, without silently presenting a repaired quotation as exact statutory text.; No express costs direction is reported. Dismissal is not rewritten as dismissal with costs or no costs.; The decision date is printed on the original report's first-page heading as 23 August 1984; the report volume and asset year are 1985.

Relevant previous year ended 31 March 1966. The Court expressly quotes and applies the section 23 text for AY 1966-67.

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 195–197, section 23(1) and separate editorial footnote 45. The displayed later actual-payment proviso is read at page 197. No comprehensive later citing-case research, exact amending-Gazette chain, current-law validation or 2025 mapping.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 5](#)

SHA-256: efff2af3ab6ddbbb60f28152fa463d1486e54cd0af00aeadab5d62f8ae3da2c3

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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