

Mc Dowell & Company Limited v. The Commercial Tax Officer

Civil Appeal No. 570 of 1983

[1985] 3 SCR 791 | 1985-04-17

Tax avoidance and lawful tax planning: historical companion decision arising from sales-tax turnover and purchaser-paid excise duty.

Andhra Pradesh General Sales Tax Act, 1957: section 2(s), turnover (historical text) | Andhra Pradesh Excise Act, 1968: section 2(10); Andhra Pradesh Distillery Rules: rules 76 and 79 as amended on 4 August 1981 | Income-tax tax-avoidance jurisprudence discussed; no assessment under the Income-tax Act decided

Five-judge bench; principal opinion by Ranganath Misra, J., and separate concurring opinion by O. Chinnappa Reddy, J. | Y. V. Chandrachud, C.J.I. | D. A. Desai, J. | O. Chinnappa Reddy, J. | E. S. Venkataramiah, J. | Ranganath Misra, J.

Sales-tax case; Income-tax companion

The operative holding concerns turnover and purchaser-paid excise duty under historical Andhra Pradesh law. The substantial discussion of Income-tax avoidance explains its inclusion; no Income-tax assessment or deduction was decided.

Read both opinions and later treatment

The principal opinion accepts tax planning within the law and rejects colourable devices. Chinnappa Reddy's broader discussion appears in a separate concurring opinion, expressly agreed with in the principal opinion. This note does not claim that every tax-saving arrangement is unlawful or that present-law clearance has been established.

01 FACTS OF THE CASE

A licensed liquor manufacturer in Hyderabad challenged the inclusion in its sales-tax turnover of excise duty paid directly to the Treasury by purchasers. Its invoices excluded that duty. An earlier McDowell decision had excluded purchaser-paid excise duty under the then applicable rules. Following amendments to distillery rules 76 and 79 on 4 August 1981, the authorities proposed inclusion for part of the 1982-83 period. The manufacturer argued that the duty never entered its accounts or circulating capital and that purchasers paid it before obtaining release of the liquor. Its writ petition failed, leading to this appeal. No challenge to the constitutional validity of the governing provisions was pursued.

Source: [Primary judgment: facts, prior decision and amended rules / PDF pp. 20-23](#)

02 DISCUSSION BY THE HON'BLE COURT

Ranganath Misra's principal opinion treated excise as a tax on manufacture: the stage at which it was collected did not alter its incidence. Under the amended rules the manufacturer bore the primary obligation, and a purchaser's direct payment discharged that obligation. The payment therefore formed part of the consideration for the sale and of statutory turnover; omission from the invoice or the manufacturer's common till was not decisive. A new argument based on differing sales-tax rates was not entertained because it had not been raised before the High Court and required factual examination. On avoidance, the principal opinion distinguished legitimate planning within the law from colourable devices and dubious methods. Chinnappa Reddy's separate concurrence examined Westminster, Ramsay, Burmah Oil, Furniss and Indian Income-tax precedents, arguing against artificial tax-avoidance devices and for examining transactions in their full setting. The principal opinion expressly agreed with that separate discussion; the two opinions must be read together without detaching broad observations from the statutory dispute.

Source: [Primary judgment: incidence, turnover and tax-planning reasoning / PDF pp. 23-34](#); [Separate concurring opinion: historical avoidance jurisprudence / PDF pp. 7-20](#)

03 JUDICIAL DECISION

The purchaser-paid excise duty was includible in the manufacturer's turnover under section 2(s) of the Andhra Pradesh General Sales Tax Act, 1957, in the setting of the amended distillery rules. Direct payment by the purchaser did not remove the duty from the sale consideration because it met the manufacturer's liability. The Court rejected the attempt to exclude that amount and the newly raised rate argument. Its tax-avoidance discussion did not adjudicate an Income-tax assessment or enact a free-standing rule that every arrangement producing tax savings is unlawful.

Source: [Primary judgment: liability, consideration and rejection of the appeal / PDF pp. 24-34](#)

04 OUTCOME / IN WHOSE FAVOUR

The manufacturer's appeal was dismissed with costs, with the hearing fee fixed at Rs.5,000. The Court referred to the earlier stay conditions requiring a bank guarantee and interest if the respondent succeeded, and permitted collection of the State's dues in accordance with law. It suggested that the State rationalise the law through appropriate amendments if necessary; it did not invalidate the legislation.

Source: [Primary judgment: operative dismissal, costs and recovery / PDF p. 34](#)

05 AKHB REVIEW POINT

AKHB analysis: first identify the statutory liability and the legal effect of a payment before treating invoice wording or the route of payment as decisive. For an Income-tax argument, distinguish this case's sales-tax holding from its broader avoidance discussion, attribute the separate concurrence accurately, and retain the principal opinion's recognition of planning within the law. A present transaction requires its own statutory analysis and a verified review of later authorities; this historical source review supplies neither a modern GAAR ruling nor current-law clearance.

Source: [Primary judgment underlying AKHB analysis / PDF pp. 20-34](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Complete 34-page SCR report read. Reporter headnote occupies physical pages 1-7/SCR 791-797; Chinnappa Reddy's separate concurring opinion runs from physical page 7/SCR 797 to page 20/SCR 810; Ranganath Misra's principal opinion runs from physical page 20/SCR 810 to page 34/SCR 824. No adjacent judgment is included.

Open cited source rendition

Exact catalogue SHA-256 and 34-page count verified. All report pages were read; physical pages 1, 7, 20 and 34 were visually checked for identity, opinion boundaries and operative relief.

No published or archived identity or whole-file hash match was found. The existing McDowell decisions of 2009 and 2017 concern different appeals and are not duplicates.

The body at SCR 810 identifies the Andhra Pradesh General Sales Tax Act as the 1957 Act; the headnote's 1947 reference is not adopted. No Income-tax assessment year is assigned.

STATUTORY SCOPE

The actual dispute arose under Andhra Pradesh sales-tax and excise law after the 1981 amendment of the distillery rules. The report is included as a companion on tax-avoidance reasoning, not as an Income-tax assessment decision or a determination under modern GAAR provisions.

LATER TREATMENT

Source checked 2026-10-14. This note records the historical decision of 17 April 1985. No comprehensive subsequent-treatment or current-law review was performed. Later judicial treatment and statutory anti-avoidance provisions must be examined separately before relying on its observations in an Income-tax matter.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 34

SHA-256: 9815eb5850a8765d252c43770e724e22ccab5e764534bfead3f946b001c6ab82

Related note: M/s. McDowell & Company Ltd. v. Commissioner of Income-Tax, Karnataka Central, Bangalore

Related note: Commissioner of Income Tax, Udaipur, Rajasthan v. McDowell & Co. Ltd.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, governing statutory version and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.