

Commissioner of Income Tax, Andhra Pradesh v. T. Veerabhadra Rao, K. Koteswara Rao & Co.

Civil Appeal No. 114 (NT) of 1975

[1985] Supp. 2 SCR 20 | 1985-07-08

Whether the successor to an entire running business, with its assets and liabilities, could deduct a transferred debt written off as irrecoverable and legal expenses of pursuing the predecessor's recovery litigation.

28 (business-income computation setting) | 36(1)(vii) (historical bad-debt deduction requiring establishment of badness in the previous year) | 36(2)(i)(a) and (b) (historical prior-accounting and write-off conditions) | 256(1) (reference route)

Two-judge bench | R.S. Pathak, J. | E.S. Venkataramiah, J.

Assessment years: 1965-66

Historical successor deduction; two distinct claims and source arithmetic limits

This ruling concerns succession to a whole continuing business and the historical sections 36(1)(vii) and 36(2). The later T.R.F. decision records the 1 April 1989 change from proof of actual irrecoverability to write-off, still subject to section 36(2); it does not decide successor entitlement. Here Rs.15,100 was allowed as bad debt and Rs.6,880 as separate legal expenses, without a standalone section 37 ruling. Opening debt amounts and an interest-period date do not reconcile. Comprehensive later treatment, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

The assessee partnership succeeded to an earlier firm's running business and took over all its assets and liabilities, including a debt owed by Laxmi Trading Company. Interest of Rs.11,349 on the debt was taxed in the assessee's hands for AY 1963-64. On 31 March 1965 it accepted Rs.25,000 in full settlement and wrote off Rs.15,100 as irrecoverable. For AY 1965-66, previous year ending 31 March 1965, it claimed that deduction (physical pages 3-5).

It separately claimed Rs.6,880 spent on an appeal to the Supreme Court to recover money due from the Central Government. The underlying transaction and suit belonged to the predecessor, and the successor continued the litigation after taking over the business (physical pages 4 and 8).

The Income-tax Officer disallowed both claims. On the debt, he objected to its origin with the predecessor and questioned proof of the debtor's inability to pay. The Appellate Assistant Commissioner found uninterrupted business continuity, bona fides and justification for the write-off, and allowed both deductions. The Tribunal affirmed. The Andhra Pradesh High Court answered the section 256(1) reference for the assessee, and the Revenue appealed by special leave (physical pages 3-4). The source's inconsistent opening debt figures and interest-period date are flagged separately; the two claimed deductions and final relief are unambiguous.

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read section 36 against section 28: the deductions relate to computation of the profits of the business. The historical section 36(1)(vii) required the debt or part to be established as having become bad in the previous year, subject to section 36(2). The quoted section 36(2)(i) required prior inclusion in computing income, or ordinary-course banking or money-lending debt, together with write-off as irrecoverable in the relevant year's accounts. The judgment must therefore not be restated as a universal rule that bookkeeping alone satisfied every condition (physical pages 5-6).

Where an entire business and its assets and liabilities pass to a successor, the right to recover a debt is among the transferred rights. The corresponding ability to claim an irrecoverable portion is an incident of that business transfer, unless the statute clearly requires otherwise. A change of owner did not itself extinguish that incident of the continuing business (physical page 6).

There were two strands to the reasoning. On the actual facts, the successor's assessment on interest showed that the underlying debt transaction had been taken into account in computing its income; the same successor later settled and wrote off the balance. Both historical subclauses were satisfied. Separately, the Court said that even if only the predecessor had taken the debt into account, the successor to the pertinent business interest would qualify: the assessee in subclause (a) need not be the identical person in subclause (b). The successor stood in the predecessor's position (physical page 7).

For the legal expenses, all the authorities had dealt with the claim on the same succession basis. The Court adopted its debt reasoning to acknowledge that deduction too. It did not supply a separate section 37 analysis or classify every litigation expense as a bad debt. It found it unnecessary to discuss the High Court decisions cited by the assessee (physical pages 7-8).

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

03 JUDICIAL DECISION

The Court upheld the Rs.15,100 bad-debt deduction and the separate Rs.6,880 legal-expense deduction for AY 1965-66. The Revenue's appeal was dismissed with costs. No remand, further factual inquiry or reserved question was ordered (physical pages 7-8/SCR 26 G and 27 A-C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeal dismissed with costs; both deductions upheld

Final reasoned decision on successor entitlement under the historical bad-debt scheme and the connected recovery-litigation expense

Succession to the continuing business with all assets and liabilities, and historical statutory conditions; no unrestricted rule for isolated purchases of receivables or all legal expenses.

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

05 AKHB REVIEW POINT

Establish what actually passed to the successor: the running business, its assets and liabilities, the specific debt and the right to continue recovery. Then test the relevant year's deduction conditions. Keep the actual taxed-interest route distinct from the Court's alternative predecessor-only reasoning; the latter prevents a change of owner from being treated as an automatic disqualification.

Preserve the historical statutory wording and the factual justification for the write-off. Do not convert the separate Rs.6,880 litigation deduction into another bad debt or infer an unexamined section 37 holding. The report's opening balances do not reconcile, so use the expressly decided deduction amounts without inventing corrected accounts.

Bounded later statutory qualification: T.R.F. Limited v. CIT, decided 9 February 2010, explains that from 1 April 1989 the section 36(1)(vii) requirement to establish actual irrecoverability was replaced by writing the bad debt off as irrecoverable in the accounts. The reproduced amended provision remains expressly subject to section 36(2). T.R.F. remitted its cases for examination of actual write-off; it did not itself finally allow the deduction. This is a later statutory-version comparison, not express treatment of Veerabhadra Rao or its successor-entitlement rule (T.R.F. physical pages 1-3; companion order on page 4). Comprehensive later treatment, present-law status and 2025 mapping remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, bench, docket and author

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: SCR 20 A-B; 21 G-H; 22 A-B

Source role: reported metadata and judicial text

2.

Topic: AY 1965-66, transferred business, assessed interest and two deductions

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 22 B-H; 23 A-H

Source role: judicial text

3.

Topic: Historical statutory conditions and business-continuity reasoning

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 24 B-H; 25 A-H

Source role: judicial text

4.

Topic: Assessed interest, alternative predecessor-only reasoning and bad-debt relief

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: SCR 26 A-G

Source role: judicial text

5.

Topic: Legal-expense deduction and dismissal with costs

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: SCR 27 A-C

Source role: judicial text

6.

Topic: Bounded later statutory qualification: 1 April 1989 amendment, section 36(2) and actual-write-off remand

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3; 4

Paragraphs: Common-order unnumbered statutory comparison on pages 1-2 and limited remand on page 3; separate companion order on page 4

Source role: bounded later primary check

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R.S. Pathak, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Historical section 36(2)(ii)-(iv), including the cross-reference to section 155(6), quoted in setting out the bad-debt scheme; not independent issues decided

SPECIFIED LATER PRIMARY-SOURCE COMPARISONS AND LIMITS

1.

Title: T.R.F. Limited v. Commissioner of Income Tax, Ranchi

Asset id: sci-judis-36023-trf-2010-02-09

Date: 2010-02-09

Pages read: 1; 2; 3; 4

Finding: For its AYs 1990-91 and 1993-94, explains the 1 April 1989 section 36(1)(vii) change: proof of actual irrecoverability unnecessary where the bad debt is written off as irrecoverable; the reproduced text is expressly subject to section 36(2). Limited remand to verify actual write-off, with no order as to costs; separate AY 1994-95 companion order does likewise. No final allowance or treatment of successor entitlement.

Relationship: Related later statutory-version qualification only; no express citation or treatment of Veerabhadra Rao is asserted.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 8 PDF pages; SHA-256

9b927d3a576cbdc8eda9e93449c0d9b32af1b9e99d8621c0cdc3b425623b28e9. Original bytes preserved.

Judicial body begins physical page 3/SCR 22 A-B and ends physical page 8/SCR 27 C. All eight pages read, including reporter material on pages 1-2; no neighbouring judgment.

Open cited source rendition

Physical page 3/SCR 22 first identifies a transferred debt of Rs.23,577, then states Rs.29,200 outstanding plus Rs.11,349 interest, totalling Rs.40,549. The stated Rs.25,000 settlement and Rs.15,100 write-off do not reconcile with that total. These are source-level inconsistencies, not corrected in the note; Rs.15,100 is independently repeated and expressly allowed at pages 5 and 7.; The same page prints the impossible date "April 31, 1960" to March 31, 1961 for the interest period, while saying the interest was taxed for AY 1963-64. The correct period is not reconstructed. The operative earlier assessment year is repeated in the Court's reasoning at page 7.; The headnote describes both claimed amounts collectively as written-off bad debts. The judicial body distinguishes Rs.15,100 bad debt from Rs.6,880 legal expenses. The latter is upheld on the same succession rationale, without a separately identified deduction provision.; Historical section 36(1)(vii) and section 36(2)(i)(a)-(b) are the provisions quoted and construed here. The bounded later T.R.F. comparison explains the 1 April 1989 badness-proof/write-off change while preserving section 36(2); it does not address successor entitlement, certify present law or establish an unrestricted deduction for isolated purchases of debts.

AY 1965-66 is the deduction year in appeal, with previous year ending 31 March 1965. AY 1963-64 is the earlier interest-assessment background, not an additional appeal.

STATUTORY SCOPE

No automatic mapping to current law or the Income-tax Act, 2025. The historical statutory version for the relevant year governs.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial treatment, appeals, reviews, stays and current-law status are not verified. The T.R.F. Limited check is a bounded later statutory-version comparison, not a citator certificate or express treatment of this judgment's successor-entitlement rule.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 8](#)

SHA-256: 9b927d3a576cbdc8eda9e93449c0d9b32af1b9e99d8621c0cdc3b425623b28e9

[bounded later primary judgment - PDF pages: 4](#)

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