

COMMISSIONER OF INCOME-TAX, WEST BENGAL-II, CALCUTTA v. HINDUSTAN HOUSING & LAND DEVELOPMENT TRUST LIMITED

Civil Appeal No. 1126 (NT) of 1974; Originating High Court proceedings: Income Tax Reference No. 5 of 1967

[1986] 3 SCR 390 | 1986-07-29

The disputed enhanced compensation did not accrue in 1956-57: the State's appeal put the very entitlement in jeopardy, and withdrawal was conditional on security. The Court distinguished a contested right from mere quantification of an admitted debt.

2-judge bench | R.S. Pathak, J. | Sabyasachi Mukharji, J.

Historical accrual ruling

This 1922 Act accrual decision does not govern later special capital-gains rules automatically. The checked 2025 section 67(12)(c) separately defers interim-order compensation to the final-order tax year; Ghanshyam's older receipt treatment is not unqualified current law.

Operative context: Indian Income-tax Act, 1922; 4(1)(b)(i).

01 FACTS OF THE CASE

A land-dealing company kept mercantile accounts. After the Government acquired its land, an arbitrator's 29 July 1955 award increased compensation and directed interest and recurring compensation. The State appealed. In April 1956 it deposited Rs. 7,36,691; the company withdrew that sum in May 1956 against security and credited a suspense account.

For 1956-57, corresponding to the year ending 31 March 1956, the Income-tax Officer nevertheless taxed Rs. 7,24,914 on the footing that the award had already caused accrual. The Tribunal treated the acquired land as stock-in-trade and the compensation as revenue, but held that the disputed enhancement did not accrue in that year. The Calcutta High Court agreed on the referred timing question.

Source: [SCR392A-H;393A-D](#)

02 DISCUSSION BY THE HON'BLE COURT

The appeal concerned accrual alone. Drawing on E.D. Sassoon, the Court explained that accrual requires a right to receive income and a corresponding debt. An award did not establish the necessary absolute right here because the Government challenged the entire enhancement. Success in its appeal could extinguish that entitlement altogether. The court-imposed security for repayment confirmed that the dispute was real and substantial.

Kedarnath Jute and Pope The King Match Factory were distinguished: those decisions involved an existing statutory liability with quantification remaining, rather than a disputed foundation of entitlement. The Court considered the compensation authorities distinguishing the original award from an inchoate claim to additional compensation, and approved the need for final determination of that disputed right.

The controlling distinction is between uncertainty over whether anything is owed and uncertainty only over the amount of an admitted obligation. The judgment does not establish that every appeal, deferred payment or calculation dispute postpones accrual, nor does it decide that the receipt was capital.

Source: [SCR393D-394D;395A-397B](#)

03 JUDICIAL DECISION

The Revenue's appeal was dismissed and the negative answer to the reference upheld. The additional Rs. 7,24,914 was not income accruing in the relevant previous year. There was no order as to costs.

Source: [SCR397A-B](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue appeal dismissed; High Court answer upheld. Result: Assessee on timing. Costs: No order as to costs. Scope: No accrual in 1956-57; capital-versus-revenue classification not reopened. Limit: Right to disputed enhancement, under the historical accrual regime.

Source: [SCR397A-B](#)

05 AKHB REVIEW POINT

Identify the head of income and governing year before using this accrual principle. Obtain the appeal grounds, repayment conditions and award to establish whether entitlement itself was disputed. A suspense entry alone is insufficient. Any later special rule taxing enhanced compensation on receipt requires a separate statutory analysis.

Source: [SCR393E-394C;397A-B](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

8-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

SCR 392G prints the award date as 29 July 1956, while 392D and 393G state 29 July 1955; the latter date fits the judicial chronology and is used with the anomaly disclosed. The deposit Rs. 7,36,691, award-computation figure Rs. 7,37,190 and disputed taxable amount Rs. 7,24,914 are distinct printed figures, not silently reconciled. The headnote includes 1961 section 5(1)(b); the operative year and quoted accrual provision concern the 1922 Act. The adopted later Ghanshyam passage incorrectly places withdrawal in the year ending March 1956; the primary May 1956 chronology is retained.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 4(1)(b)(i).

The checked 2011 section 5 preserves general accrual principles, while section 45(5) contains a separate compulsory-acquisition capital-gains regime using receipt and recomputation. That snapshot predates the later interim-order provision and is not a present-day consolidation.

Selected 2025/FA 2026 section 67(12)(b) addresses receipt of enhanced capital compensation, but clause (c) expressly places compensation received under an interim order in the tax year of the final order. Section 278(1) separately concerns compensation interest. Ghanshyam's older interim-withdrawal statement must therefore not be presented as unqualified current law.

Section 1(3) commenced the 2025 Act on 1 April 2026, subject to exceptions. Section 536 preserves prior operation, rights and liabilities and the 1961 procedure for specified earlier-year and pending proceedings. Determine the governing year and savings before using any comparison.

Related-section tags are research navigation only. They are not provisions decided in this judgment or verified mappings beyond any expressly bounded comparison below.

No automatic precedent carry-over or verified case-specific 2025 applicability is claimed.

LATER TREATMENT

Source checked 2026-10-07. Commissioner of Income-Tax, Faridabad v Ghanshyam (HUF) (Supreme Court of India, 2009-07-16), paragraphs 27–38: Expressly holds Hindustan Housing inapplicable to the compulsory-acquisition capital-gains scheme introduced by section 45(5) from 1 April 1988. This is statutory displacement in a defined field, not blanket overruling of the accrual proposition. Later statute amendments must be checked separately. Ghanshyam's paragraph 27 recounts an inconsistent withdrawal chronology; it is adopted only for subsequent statutory treatment. The original judgment's May 1956 withdrawal chronology controls this note.

Bounded later use is recorded below. No claim of exhaustive research, absence of contrary treatment or current-law certification is made.

IDENTIFIED SOURCE LINKS

[Commissioner of Income-Tax, Faridabad v Ghanshyam \(HUF\) \(2009-07-16\), nonofficial judicial text reproduction](#)

paragraphs 27–38 Third-party public judicial text via web extraction; no court-original image validation; apparent OCR/typesetting anomalies preserved; link markup removed only in passage file; bounded passage only, not full later judgment.

[Income-tax Act, 1961, supplied DOR 2011 compilation](#)

Section 5, physical 72–73; section 45(5), physical 346–347. Selected extracted text only; not present-day 1961 consolidation or source-image verification.

[Income-tax Act, 2025, as amended by Finance Act 2026](#)

Section 5, physical 27, lines 1057–1082; section 67 heading, physical 122, lines 4984–4988, and 67(12)–(13), physical 124–125, lines 5089–5118; section 278(1), physical 371, lines 15014–15017. Selected official web-extracted text only; not full Act/raw-PDF/image/all-amendments verification. Physical pages are one-based; underlying web P indexes are zero-based.

[2025 Act commencement and savings, selected FA 2026 text](#)

Section 1(3), physical 1, lines 0–13; section 536(2)(a)–(e), physical 584–585, lines 24385–24408.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

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