

COMMISSIONER OF INCOME-TAX, BOMBAY CITY-I, BOMBAY v. ASSOCIATED CEMENT COMPANIES LTD., BOMBAY

Civil Appeal No. 512 (NT) of 1975; originating High Court reference: Income Tax Reference No. 15 of 1964

[1988] 3 SCR 917 | 1988-05-04

Expenditure on municipality-owned water facilities was revenue expenditure because its commercial advantage was relief from recurring municipal liabilities, without adding to the assessee's capital assets or structure. The fifteen-year duration did not by itself make the payment capital.

2-judge bench | R. S. Pathak, C.J. | M. H. Kania, J.

Commercial character controls the result

A fifteen-year benefit was revenue on these particular facts: municipality ownership, substitution of municipal revenue outgoings and no addition to the company's capital structure. The decision does not make all infrastructure or third-party asset expenditure deductible.

Operative context: Indian Income-tax Act, 1922; historical sections 10(2)(xv), 66(1), 66A(2).

01 FACTS OF THE CASE

Associated Cement already operated a cement factory at Shahabad. When the Hyderabad Government proposed bringing the factory area within municipal limits, the company, Government and municipality entered an agreement on 30 October 1956. The company promised water and other amenities; in consideration, specified company properties would remain outside municipal or similar local limits for fifteen years.

Only the water-supply work was performed in the relevant previous year ending 31 July 1958. The company claimed Rs.2,09,459 for pipelines, installations and accessories that became the municipality's property. The agreement separately left certain pipelines within or close to the factory with the company. The Income-tax Officer treated the claim as capital expenditure; the first appellate authority allowed it, and the Tribunal required scrutiny to exclude expenditure creating assets owned by the company. The Bombay High Court answered the reference in the company's favour.

Source: [SCR 919 E-921 E](#)

02 DISCUSSION BY THE HON'BLE COURT

The dispute before the Supreme Court was confined to capital versus revenue character. The business purpose of the expenditure was not disputed. Revenue argued first that laying pipelines created capital assets and secondly that fifteen years' immunity from municipal charges was an enduring advantage.

The Court rejected both arguments on these facts. The facilities represented by the disputed expenditure belonged to the municipality. The company obtained relief, under normal conditions, from rates, taxes and charges which would themselves have been revenue outgoings. Applying *Empire Jute*, the Court examined the commercial nature of that advantage rather than treating its duration as decisive. An advantage facilitating profitable business operations can remain on revenue account when fixed capital is untouched.

The Court also took account of the existing factory and the absence of any addition to the company's capital assets or change in its capital structure. Its reasoning combines the ownership position, the substituted recurring liabilities and the commercial purpose; it does not establish that every payment creating an asset owned by someone else must be deductible.

Source: [SCR 921 F-924 A](#)

03 JUDICIAL DECISION

The expenditure was deductible under section 10(2)(xv) of the 1922 Act. The Supreme Court dismissed Revenue's appeal and sustained the High Court's affirmative answer to the deduction question. The decision concerns the municipality-owned water facilities included in the disputed claim, not a blanket allowance for all capital work under the wider agreement.

Source: [SCR 924 A](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal dismissed; deduction upheld. Result: Assessee. Costs: Appeal dismissed with costs. Scope: Capital-versus-revenue issue finally decided. Limit: Business purpose was undisputed; the claimed facilities belonged to the municipality and substituted revenue liabilities.

Source: [SCR 924 A](#)

05 AKHB REVIEW POINT

Identify exactly what the payment buys, who owns each resulting facility, and which recurring business outgoings it replaces. Separate company-owned assets from public facilities before applying the decision. A long benefit period is evidence to assess, not a complete legal test. For a later-year claim, also check the applicable deduction provision and any specific statutory restriction; this judgment decided an assessment under the 1922 Act.

Source: [SCR 920 C-F; 921 C-D; 922 D-924 A](#)

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

The reported statutory appeal notation is section 66(A)(ii), reproduced as the section 66A(2) certificate route. The agreement promised electricity and road works as well, but SCR 920 C records that only water-supply work was done in the relevant year.

STATUTORY SCOPE

Indian Income-tax Act, 1922, section 10(2)(xv), section 66(1), section 66A(2).

Section 37(1) is the related residual deduction provision, with its own exclusions and later Explanations. The checked official text is labelled 2025, not the operative historical text for this appeal.

Section 34(1)-(3), official version labelled 2026, is a related general-deduction framework. Its exclusions require separate application; this historical decision did not construe it.

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

LATER TREATMENT

Source checked 2026-10-06. CIT v. Madras Auto Service (P) Ltd., 12 August 1998, expressly discussed Associated Cement's municipality-owned facilities and revenue savings, then used that reasoning in allowing construction expenditure securing lower rent where the building belonged to the lessor.

Checked the later Supreme Court judicial reproduction's bounded discussion of Associated Cement and its application to the leased-building facts. This establishes a specific later use, not exhaustive subsequent history or current deductibility for every infrastructure arrangement.

IDENTIFIED SOURCE LINKS

[CIT v. Madras Auto Service \(P\) Ltd. \(1998-08-12\), nonofficial HTML judicial reproduction](#)

Judicial text from the capital/revenue tests through the Associated Cement discussion and concluding application/disposition; HTML lines 91-118, especially 110-117. No raw later-PDF/image verification.

[1961 Act section 37\(1\) and Explanations 1-3, official version labelled 2025](#)

1961 Act section 37(1) and Explanations 1-3, official version labelled 2025; web-indexed complete provision read, direct open failed.

[2025 Act section 34\(1\)-\(3\), official version labelled 2026](#)

2025 Act section 34(1)-(3), official version labelled 2026; bounded official text read.

AI DISCLOSURE

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

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