

R.K. PALSHIKAR (HUF) v. COMMISSIONER OF INCOME-TAX, MADHYA PRADESH, NAGPUR, BHANDARA, NAGPUR

Civil Appeal Nos. 613-15 of 1975; Originating High Court proceedings: M.C.C. No. 248 of 1968
[1988] 3 SCR 989 | 1988-05-05

Granting 99-year leases for substantial premiums transferred enduring rights of possession and enjoyment and attracted section 12B. The Court refused to entertain a new no-cost-acquisition argument outside the referred and certified question.

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

Long lease transfer; cost issue undecided

The Court decided the effect of these 99-year premium leases. It did not adjudicate the new no-cost-acquisition argument or restore the abandoned agricultural-land claim.

Operative context: Indian Income-tax Act, 1922; 12B, 2(4A), 66(1), 66A(2).

01 FACTS OF THE CASE

The HUF developed 36.62 acres at Indore, formerly agricultural land, into Palshikar Colony. It laid out building plots and installed roads, sewers and water lines. From 1958 it granted 99-year leases with premiums and annual rent. For the three assessment years 1959-60 to 1961-62, reported premiums were Rs. 1,45,190, Rs. 2,06,475 and Rs. 2,54,341.

The assessee initially argued both that the land was agricultural and that a lease did not transfer a capital asset. The agricultural contention was not pressed before the High Court because the land had already been diverted to non-agricultural use. The certificate for appeal concerned only the lease-transfer question.

Source: [SCR 991 F-H;992 A-H;993 A-G](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court first rejected an attempt to argue that the ancestral Inam grant had cost nothing and therefore could not support a capital-gains computation. That point had not been raised before or considered by the Tribunal, nor determined by the High Court. Applying *Scindia Steam Navigation*, a proposition that might arise from the facts was not for that reason a question arising from the Tribunal's order.

The Court also noted the absence of an express finding that the original grant was without consideration and the substantial later development expenditure. Those observations did not resolve the unadmitted no-cost argument on its merits.

On the certified question, the 99-year duration, premium and enduring transfer of possession and enjoyment were decisive. The lessor's retention of an ultimate interest and contractual termination rights did not prevent a transfer for section 12B. The Court applied the reasoning of *Traders and Miners*, although that case involved a mining lease. The relevant property could be a long-term leasehold interest rather than the lessor's entire ownership.

Source: [SCR 994 F-H;995 A-H;996 A-H;997 A-B](#)

03 JUDICIAL DECISION

The leases constituted transfers of capital assets within section 12B. The appeals represented by the printed appeal group were dismissed with costs, sustaining the adverse answer on the certified issue.

Source: [SCR 997 A-B](#)

04 OUTCOME / IN WHOSE FAVOUR

Appeal group dismissed. Result: Revenue. Costs: With costs. Scope: 99-year premium leases held transfers under section 12B. Limit: No-cost question not entertained; agricultural claim had been abandoned.

Source: [SCR 997 B](#)

05 AKHB REVIEW POINT

Examine the term, premium, rent, possession, enjoyment and termination provisions together. Preserve cost and computation arguments at the Tribunal stage rather than presenting them for the first time in a confined reference appeal. Keep classification as a transfer separate from the amount and timing of taxable gains under the governing statutory version.

Source: [SCR 992 B-F;993 F-G;995 B-G;996 D-H;997 A-B](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

9-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 caption's repeated Nagpur wording and printed Civil Appeal Nos.613-15 are preserved. The report describes a lease granted 24 May 1958 and agreement executed 15 September 1959; no unstated reconciliation of those transaction dates is supplied.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 12B, 2(4A), 66(1), 66A(2).

The 2011 text of sections 2(47), 45(1) and 48 provides transfer, charge and consideration-less-cost computation provisions. The historical bridge does not resolve all later lease character or cost questions.

Sections 2(109), 67(1) and 72(1) separately address transfer, charge and computation. This framework comparison does not classify every lease premium or remove the need to determine attributable cost.

The 2025 Act commenced 1 April 2026. Section 536 preserves 1961 proceedings/procedure for tax years beginning before that date and pending proceedings; compare the actually applicable law.

Related-section tags are research cross-references, not provisions decided in this judgment or verified mappings beyond the specific comparisons and source bounds below.

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

LATER TREATMENT

Source checked 2026-10-07. A. R. Krishnamurthy (1989), paragraphs 9–11, invokes Palshikar's approval of lease-transfer reasoning. For a ten-year clay-mining lease carved from purchased land, it held that the acquisition price included the mining right and that cost apportionment was factual, distinguishing self-generated goodwill.

This verified later use concerns purchased land and an identifiable mining right. It does not decide every lease premium, make rent exempt, or hold that all acquired rights have nil cost. The adopted source is an unofficial PDF reproduction, text-only. Comprehensive subsequent history remains unverified.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961, as amended by Finance Act 2011; supplied DOR compilation](#)

Sections 2(47), 45(1), 48; physical 70,344–345,356; printed 1.29,1.303–1.304,1.315. Selected text only; not current 1961 consolidation or image verification.

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

Section 2(109) physical 24 lines 965–967; 67(1) physical 122 lines 4984–4988; 72(1) physical 137 lines 5585–5592. Selected web-extracted text; no raw-PDF/image verification or all-amendments certificate.

[A. R. Krishnamurthy v. Commissioner of Income-tax \(1989-02-10\), nonofficial judicial text reproduction](#)

Unofficial Taxsutra judgment PDF reproduction; paragraphs 1–2; PDF page 1 (zero-based page 0). Ten-year mining lease context.

[A. R. Krishnamurthy v. Commissioner of Income-tax \(1989-02-10\), nonofficial judicial text reproduction](#)

Unofficial Taxsutra judgment PDF reproduction; paragraphs 9–11; PDF pages 2–3 (zero-based pages 1–2). Palshikar citation, land/right cost nexus, apportionment, Srinivasa Setty distinction, disposition.

[Statutory comparison pinpoint](#)

Section 2(109) physical 24 lines 965–967; 67(1) physical 122 lines 4984–4988; 72(1) physical 137 lines 5585–5592.

[Statutory comparison pinpoint](#)

Section 1(3), physical 1; section 536(2)(c),(e), physical 584–585, extracted lines 24385–24408.

AI DISCLOSURE

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

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