

Federation of Hotel & Restaurant Association of India and Others v. Union of India and Others

Writ Petition No. 1395 of 1987 and connected petitions

[1989] 2 SCR 918 | 1989-05-02

Expenditure-tax and constitutional tax powers: hotel levy upheld; companion concurrence on hotel-receipts income taxation.

Expenditure-tax Act, 1987: historical sections 2-8 and 24 | Constitution of India: Articles 14, 19(1)(g), 246 and 248; Seventh Schedule, List I Entries 82 and 97 and List II Entries 54 and 62 as then applicable | Hotel Receipts Tax Act, 1980: companion constitutional holding in Ranganathan, J.'s concurrence

Five-judge Constitution Bench; Venkatachaliah, J. for four judges, with Ranganathan, J. separately concurring. | R. S. Pathak, C.J. | Sabyasachi Mukharji, J. | S. Natarajan, J. | M. N. Venkatachaliah, J. | S. Ranganathan, J.

Constitutional tax companion, not a 1961 Act assessment

The principal holding concerns the Expenditure-tax Act, 1987. Ranganathan, J.'s separate concurrence expressly joins the connected Hotel Receipts Tax Act, 1980 holding under Entry 82. Income-tax machinery incorporated by sections 6 and 24 does not convert expenditure into taxable income.

Distinct opinions and historical provisions

Read the four-judge main opinion separately from the concurrence. Neither the original hotel threshold and rate nor the pre-amendment distribution of tax powers is presented as current law.

Printed docket discrepancy

The jurisdiction heading and main opinion paragraph 2 identify WP1395/1987; concurrence paragraph 5 prints WP1393/1987. This note follows the repeated principal identification and preserves the source unchanged.

01 FACTS OF THE CASE

Hotel associations, companies and affected individuals challenged the Expenditure-tax Act, 1987 under Article 32. In its original form, the Act imposed 10% tax on chargeable expenditure in hotels where room charges for any residential unit were Rs.400 or more per person per day. Specified accommodation, food, drink and services were covered, subject to statutory exclusions. Customers bore the incidence; designated persons collected and remitted the tax. Petitioners argued that the levy was really a State luxury or sales tax, that its hotel-based classification was discriminatory, and that its burdens infringed business freedom.

Source: [Primary report: facts and statutory scheme](#)

02 DISCUSSION BY THE HON'BLE COURT

The four-judge opinion distinguished a tax's true subject from its measure and economic effects. One transaction can have distinct taxable aspects: expenditure was not legally identical to luxury enjoyment or sale merely because their economic burdens overlapped. Economists' models and the earlier general expenditure-tax scheme did not confine Parliament to taxing all expenditure. Fiscal classification enjoyed latitude, but still required rational differentia and nexus and remained subject to Article 14. The hotel room-rate distinction survived that test. Ranganathan, J. separately agreed, including with the connected hotel-receipts levy as a tax on income under Entry 82. He rejected treating an earlier residuary-power decision as adding a fictional entry to List I: the actual levy still had to be distinguished from the State field.

Source: [Main opinion: legislative competence](#); [Separate concurrence and connected income-tax holding](#)

03 JUDICIAL DECISION

The expenditure-tax levy was within Parliament's residuary power under Article 248 and Entry 97 and survived Articles 14 and 19(1)(g). The phrase 'other similar services' in section 5(d) had contextual meaning; whether a particular service fell within it was a construction question, not constitutional invalidity. Tax burden, diminished profits or individual hardship did not by themselves establish infringement of business freedom. The Court did not decide an individual customer's liability, a hotel assessment or any deduction under the Income-tax Act.

Source: [Primary report: holdings](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Union/Revenue. The principal writ petitions were dismissed, with no order as to costs. The concurrence agreed that the challenged enactments in the three connected groups should be upheld and the petitions and appeals dismissed. There was no remand, refund or taxpayer merits relief.

Source: [Operative dismissal and costs](#); [Concurrence conclusion](#)

05 AKHB REVIEW POINT

AKHB analysis: map the taxable event, person bearing incidence, collection mechanism and constitutional entry separately. Shared receipts or a common numerical measure do not alone make two levies constitutionally identical. Conversely, a label or an earlier residuary-power ruling does not dispense with examining the actual State-field objection. For a classification challenge, address real statutory operation and rational nexus, not simply an untaxed comparator or heavier business costs. Use this decision with the distinct Elle Hotels income-tax companion, without merging expenditure tax with hotel-receipts taxation or projecting historical rates and entries into present law.

Source: [Primary basis for editorial review](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

All 52 report pages read. Reporter headnote: SCR918-926 / PDFpp.1-9. Main judicial opinion: SCR927-955 / PDFpp.10-38; separate concurrence: SCR955-969 / PDFpp.38-52. Paragraph numbering restarts in the concurrence; the main opinion repeats paragraph number 16.

Open cited source rendition

The registered SHA-256, exact source size of 1600848 bytes and 52-page count were verified. All 2446 extracted lines were read through EOF; key caption, jurisdiction, merits, concurrence and final pages were visually inspected.

The report contains two separately numbered opinions. The main opinion's paragraph number 16 is repeated; SCR/PDF pinpoints distinguish those passages. The concurrence expressly extends to connected CA338-339/1981 and WP254-261/1981; those are not relabelled as this petition's principal docket.

No published or reviewed-archive judgment identity or exact source-hash duplicate was found. Elel Hotels is a distinct, already-covered companion judgment with a different source, docket and levy.

STATUTORY SCOPE

Historical expenditure-tax legislation and constitutional distribution of tax powers, with an express hotel-receipts income-tax companion concurrence. This is not an assessment under the Income-tax Act, 1961. The original Rs.400 hotel threshold and 10% rate are not stated as current law.

LATER TREATMENT

Source checked 2026-10-14. No comprehensive subsequent-treatment or present-law clearance is claimed. Check later constitutional amendments and the relevant statutory period before reliance.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 52](#)

SHA-256: 96c20ad6ec99c425c3074bea4d2b00806d16233d4b3b8475b46e36167f7532ef

[Related note: Elel Hotels and Investments Ltd. and Others v. Union of India](#)

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report. Independent human review is not represented.

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