

Poonjabhai Varmalidas v. Commissioner of Income Tax, Ahmedabad

Civil Appeal Nos. 1431–1433 (NT) of 1976

[1990] Supp. 2 SCR 206 | 1990-10-09

Whether bad debts allowed under section 10(2)(xi) of the 1922 Act could, when recovered after the 1961 Act came into force and after the business had ceased, be charged under section 41(4) through section 24 of the General Clauses Act.

36(1)(vii), historical text | 36(2), read with the allowance provision | 41(4)

Two-judge bench | T.K. Thommen, J. | R.M. Sahai, J.

Assessment years: 1964-65, 1965-66, 1967-68

Historical recovery rule and limited statutory continuity

These three appeals concern AYs 1964–65, 1965–66 and 1967–68 and an earlier 1922 Act bad-debt allowance. Section 24 continued the allowance order; section 41(4) then charged only its specified excess on recovery, even after business cessation. The Court did not say the old and new recovery regimes were identical. The source's section 25 introduction is a printing slip: the quotation and holding apply section 24. Historical section 36 wording is not present-law advice; comprehensive later treatment and current-law/2025 mapping remain unverified.

01 FACTS OF THE CASE

The same assessee was involved in three appeals concerning AYs 1964–65, 1965–66 and 1967–68. Debts had been written off in the year 1959–60. Although the ITO originally disallowed the deduction, the Tribunal allowed it by its order dated 12 July 1963 in ITA Nos. 673–676 (AHD), under section 10(2)(xi) of the 1922 Act. The assessee subsequently recovered amounts in the previous years relevant to the three assessment years. His business had ceased before each recovery year, and his accounts were not kept on a cash basis. The judgment does not quantify the recoveries (physical pages 3–4/SCR 208–209).

The ITO taxed the recoveries under section 41(4) of the 1961 Act, and the AAC affirmed. The Tribunal accepted the assessee's contention that section 41(4) did not reach a deduction allowed under the former Act. On references, the Gujarat High Court answered in Revenue's favour, applying section 24 of the General Clauses Act to the earlier allowance order. The Supreme Court heard the assessee's three certificate appeals from the common High Court judgment (physical pages 3–4).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished the law governing the original deduction from the law governing the subsequent receipt. It accepted that, had recovery occurred before repeal of the 1922 Act, the cessation of the business would have prevented the charge under that Act, referring to Express Newspapers. But the recoveries here occurred after the 1961 Act came into force. Section 41(4) expressly taxes the specified excess in the recovery year whether or not the business or profession then exists. The Court called this a fundamental deviation from the earlier provision; it did not treat the two complete recovery regimes as identical (physical pages 4–6/SCR 209–211).

The assessee nevertheless argued that section 41(4) expressly required a deduction under section 36(1)(vii), whereas these debts had been allowed under the 1922 Act. The answer was the continuity of the allowance order. Section 24 of the General Clauses Act preserves an order made under a repealed and re-enacted provision, to the extent consistent with the re-enacted provisions. The Court treated former section 10(2)(xi) as a composite provision containing the ingredients later distributed among sections 36(1)(vii), 36(2) and 41(4). In making the original bad-debt allowance, the assessing authority exercised a power consistent with the later allowance power under section 36(1)(vii), which had to be read with section 36(2) (physical pages 6–7/SCR 211–212).

The prior allowance order was consequently deemed an order under section 36(1)(vii), satisfying the gateway in section 41(4). A qualifying recovery was chargeable only to the extent of the statutory excess: the amount by which the recovery exceeded the difference between the relevant debt or part of debt and the deduction allowed. The judgment's conclusion therefore does not make every gross recovery taxable without regard to the earlier allowance (physical pages 5 and 7/SCR 210 and 212).

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

03 JUDICIAL DECISION

The assessee's contentions failed. The earlier deduction order was treated, by section 24 of the General Clauses Act, as an order under section 36(1)(vii) for the purpose of section 41(4). Recoveries were chargeable under section 41(4), despite cessation of business, to the extent of the excess specified in that provision. All three appeals were dismissed; there was no order as to costs (physical page 7/SCR 212).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Civil Appeal Nos. 1431–1433 (NT) of 1976 dismissed; no order as to costs

Final reasoned ruling on application of the historical 1961 recovery charge to a continued 1922 allowance order

No fresh determination of the original bad-debt deduction, quantified tax computation, universal charge on gross recoveries, or present-law/2025 certification.

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

05 AKHB REVIEW POINT

Trace the original allowance order as well as the later recovery. This decision joins a continued deduction order to the recovery charge in force when money is recovered. The Court's comparison concerns the consistency of the allowance powers; it coexists with its explicit recognition that section 41(4) changed the treatment of recovery after cessation.

For research or computation, identify the relevant debt or part, the deduction actually allowed, the amount recovered and the recovery year before applying the statutory excess formula. Do not quote the historical section 36(1)(vii) wording as a statement of present deduction requirements. The source's stray reference to General Clauses Act section 25 is a printing slip within a discussion, quotation and holding expressly applying section 24. Comprehensive later treatment and current-law/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, appeal group and assessment years

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered text; physical PDF pages one-based; corresponding SCR pages 206, 208

Source role: reported metadata and judicial text

2.

Topic: Original bad-debt allowance, business cessation and lower-court course

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered text; physical PDF pages one-based; corresponding SCR pages 208, 209

Source role: judicial text

3.

Topic: 1922 proviso and 1961 recovery charge with excess limitation

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered text; physical PDF pages one-based; corresponding SCR pages 209, 210

Source role: judicial text

4.

Topic: Changed cessation rule and rejected non-equivalence argument

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered text; physical PDF pages one-based; corresponding SCR pages 210, 211

Source role: judicial text

5.

Topic: General Clauses Act section 24 and consistent allowance powers

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: Unnumbered text; physical PDF pages one-based; corresponding SCR pages 211, 212

Source role: judicial text

6.

Topic: Recovery charge only to statutory excess; final disposal and costs

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Unnumbered text; physical PDF pages one-based; corresponding SCR pages 212

Source role: judicial text

OTHER GOVERNING STATUTES

Indian Income-tax Act, 1922, section 10(2)(xi), original deduction order; General Clauses Act, 1897, section 24, continuity of the deduction order

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

T.K. Thommen, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 7 PDF pages; SHA-256

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Editorial headnotes and case details on physical pages 1–3/SCR 206–208. Complete Thommen J. judgment begins on page 3 and ends on page 7/SCR 212. Statutory quotations, assessee's rejected arguments and the Court's transition-law holding are distinguished. No adjacent judgment.

Open cited source rendition

Physical page 6/SCR 211 introduces the statutory quotation as section 25, but the quotation itself is numbered 24 and the surrounding reasoning and conclusion repeatedly apply section 24. This is a source-image discrepancy, not merely an OCR substitution.; Physical page 3/SCR 208 gives all three Civil Appeals, 1431–33 (NT) of 1976. The catalogue only lists the lead number 1431; the full source group controls.; The court header on physical page 3 calls the lower court Ahmedabad High Court; the judicial body identifies the High Court of Gujarat. The page image dates the common judgment 27 February 1976. No different lower-court proceeding is inferred.; The quoted section 36(1)(vii) is historical statutory text. This note does not certify current deduction requirements or a 2025 section correspondence.; The Court recognises a material change in the cessation-of-business rule but finds the original allowance powers consistent for section 24. These propositions must be read together; only the section 41(4) excess is chargeable.

STATUTORY SCOPE

The judgment itself decides continuity between the specified 1922 allowance order and the historical 1961 provisions. No independent modern statutory crosswalk or Income-tax Act, 2025 mapping is certified.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment search is certified; no later decision or current-law primary check was undertaken for this note.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 7](#)

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