

Bikaner Gypsums Ltd. v. Commissioner of Income Tax, Rajasthan

Civil Appeal No. 262 (NC) of 1976

[1990] Supp. 2 SCR 313 | 1990-10-23

Whether Rs 3 lakh paid towards relocating a railway station, tracks and establishments obstructing the exploitation of minerals already covered by an existing mining lease was revenue expenditure or the cost of acquiring a capital asset or right.

37(1) | 256

Three-judge bench | K.N. Singh, J. | K.N. Saikia, J. | Kuldip Singh, J.

Assessment years: 1964-65

Existing mining rights and the exact payment control the result

For AY 1964-65 the deductible amount was the Rs 3 lakh contribution to remove railway obstructions within an existing mining lease. No new capital asset or mineral right was acquired; the separate Rs 7,300 surface-rights payment was not adjudicated. The enduring-benefit test is not conclusive, but removal-of-obstruction language does not itself make a capital acquisition deductible. The headnote's 1922 Act reference does not make this a 1922-only case. Comprehensive later treatment, current-law certification and 2025 Act mapping remain unverified.

01 FACTS OF THE CASE

A 20-year lease dated 29 September 1948 covered 4.27 square miles at Jamsar and was assigned to Bikaner Gypsums on 11 December 1948. It granted mining and associated surface-use liberties, but restricted operations within 100 yards of railway and other specified works without permission. The railway station and tracks lay within the demised area, and the Railways later expanded their works there. An eviction suit failed (physical pages 4–7/SCR 316–319).

High-quality gypsum beneath the railway area was needed for supply to Sindri Fertilizers. The assessee, Sindri Fertilizers, Rajasthan Government and Railway Board agreed that the railway establishment would move to an alternative site offered by the assessee, sharing the Rs 12 lakh relocation cost equally. The assessee's disputed share was Rs 3 lakh; a separate Rs 7,300 surface-rights compensation payment was mentioned but was not the referred deduction. After relocation, the assessee extracted 6,30,390 tons of gypsum and completed mining of that area within two years (physical pages 7 and 14/SCR 319-C–F and 326-E–F).

The assessee claimed the Rs 3 lakh for AY 1964-65. The ITO and AAC rejected it as capital expenditure. The Tribunal held it revenue; on Revenue's section 256 reference the High Court treated the payment as acquiring an enduring capital asset (physical pages 7–8/SCR 319-F–320-B).

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

02 DISCUSSION BY THE HON'BLE COURT

The character of expenditure depends on its aim, the business, the rights acquired and their commercial relationship. No single test resolves every case. An enduring advantage is an important indicator but not an invariable or conclusive capital test: expenditure facilitating an existing trade can be on revenue account while fixed capital remains untouched (physical pages 8–9, 11–14/SCR 320–321, 323–326).

The Court distinguished the acquisition or initiation costs in *R.B. Seth Moolchand Suganchand, Bikaner* already possessed the mining rights over the whole demised area, including the minerals beneath the railway works. Its claim did not concern acquiring a mining lease, licence or fresh mineral rights. Clause 3 restricted exercise of existing rights without destroying them. The Rs 3 lakh removed physical obstructions so the established business could be conducted profitably; it did not purchase a new capital asset (physical pages 11 and 14/SCR 323-A–D and 326-C–G).

Following the commercial approach discussed through *Carron Company* and *Empire Jute*, the Court held that removal of a restriction, obstruction or disability in an existing business can be revenue expenditure provided no capital asset is acquired. It took account of completion of mining within two years and rejected the High Court's enduring-benefit conclusion on these facts. The decision's qualification is essential: merely describing a payment as "removal of obstruction" cannot determine its character where the actual transaction acquires a new capital right (physical pages 13–15/SCR 325–327).

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

03 JUDICIAL DECISION

The assessee's appeal was allowed, the High Court order set aside and the Tribunal's order restored. The Rs 3 lakh railway-relocation contribution was allowable as revenue expenditure for AY 1964-65. The appellant was entitled to its costs; no figure was specified, and there was no remand. The result did not separately adjudicate the Rs 7,300 surface-rights payment (physical page 15/SCR 327-A–C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal allowed; High Court order set aside; Tribunal order restored; appellant entitled to costs

Final capital-versus-revenue determination on the Rs 3 lakh contribution

Existing mining rights, an established business and absence of a newly acquired capital asset are central. No independent decision on the Rs 7,300 compensation, no deduction for every mining lease or licence fee, and no mechanical rule based only on duration follows.

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

05 AKHB REVIEW POINT

Start with the rights held before payment and compare them with what the payment actually obtained. Read the original lease, restrictive clauses, relocation agreement and allocation of expenditure together. Separate the cost of making an existing business right usable from the price of a new mineral right, asset or profit-making structure. Keep the Rs 3 lakh relocation contribution distinct from the separately described surface compensation.

The two-year extraction period supports the factual analysis but is not an automatic time threshold between revenue and capital. The more durable editorial lesson is to identify the commercial function of expenditure and whether fixed capital or the underlying rights changed. Later-year statutory requirements and subsequent judicial treatment need independent verification.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal and express 1961 Act question

Source url: [Open cited source](#)

Pdf pages: 1; 4

Paragraphs: SCR 313; 316-C-H

Source role: reported metadata and judicial text

2.

Topic: Existing rights and 100-yard restriction

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text; SCR 317–318

Source role: judicial text

3.

Topic: Four-party cost allocation, separate compensation and AY

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Unnumbered judicial text; SCR 319–320-B

Source role: judicial text

4.

Topic: Capital tests, lease-acquisition distinction and qualified obstruction principle

Source url: [Open cited source](#)

Pdf pages: 8; 9; 11; 12; 13; 14

Paragraphs: Unnumbered judicial text; SCR 320-E–321-F; 323–326-B

Source role: judicial text

5.

Topic: Existing-rights application, two-year extraction and exact relief

Source url: [Open cited source](#)

Pdf pages: 14; 15

Paragraphs: Unnumbered judicial text; SCR 326-C–327-C

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K.N. Singh, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

HISTORICAL STATUTORY CONTEXT

AY 1964-65 deduction under the Income-tax Act, 1961, with the judicial reference route expressly under section 256. The headnote lists both the old general-expense provision and section 37(1); the judicial assessment year and framed question independently establish 1961 Act eligibility. No later legislative or 2025 Act mapping review.

IDENTIFIED PROCEDURAL HISTORY

Assessee appeal from Rajasthan High Court judgment dated 24 April 1975 in D.B. Civil I.T.R. No. 45 of 1969. ITO and AAC treated the payment as capital; the Tribunal allowed revenue deduction; the High Court answered the reference for Revenue; the Supreme Court restored the Tribunal.

ROLE AND SCOPE OF EACH IDENTIFIED PROVISION

1.

Section: 37(1)

Role: Revenue-versus-capital deduction provision indexed by the printed headnote. The judicial text itself frames the question as deductibility under the 1961 Act and decides AY 1964-65, without quoting or separately naming section 37(1). This section label is not used as sole evidence of statutory-era eligibility.

2.

Section: 256

Role: 1961 Act reference route expressly stated in the judicial text at SCR 320-A.

3.

Section: 10(2)(xv), Indian Income-tax Act, 1922

Role: Historical counterpart in the headnote and predecessor-law cases; this is not a 1922-only operative dispute.

OPERATIVE 1961 ACT PROVISIONS

37(1)

SOURCE & VERIFICATION

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

Identified source rendition: 15 PDF pages; SHA-256

5601c36ca4e78c2918630e39e8ccaa47e4d30a641c6b523baf24ab09e8f8d1d7. Original bytes preserved.

Unnumbered judgment of Singh J. begins on physical page 4/SCR 316-E-F and continues through the appeal allowed, Tribunal order restored and appellant costs on physical page 15/SCR 327-C. Editorial headnotes and proceeding details on physical pages 1–4 read separately. No adjacent judgment.

Open cited source rendition

Printed SCR volume, date, three-member bench and appeal number checked against source images. The repository identifier 1990INSC319 is not represented as an independently verified published neutral citation.

Section 37(1) appears in the editorial headnote, not as a quoted section in the judicial reasoning. Eligibility rests independently on the judgment's express 1961 Act question, section 256 reference and AY 1964-65.; At SCR 326-C the source image itself has a broken sentence joining "surface of the entire" to "money, licence fee". The note does not reconstruct missing words; the existing-rights finding is supported by the intact lease discussion and the following reasoning.; The source's account of Bombay Steam Navigation at SCR 322 is not used to state an independent holding of that cited case; its original judgment has not been separately checked in this review.; All judicial paragraphs are unnumbered. Headnote proposition numbers and quoted precedent narratives are not treated as independent judicial paragraph pins or fresh holdings.

STATUTORY SCOPE

Apply the statutory version governing the relevant assessment year. No current-law certification or automatic mapping to the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial and statutory treatment has not been verified. No bounded later-treatment check is claimed in this note; no current-law certification or Income-tax Act, 2025 mapping is supplied.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 15](#)

SHA-256: 5601c36ca4e78c2918630e39e8ccaa47e4d30a641c6b523baf24ab09e8f8d1d7

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.