

Mahabir Cold Storage v. Commissioner of Income Tax, Patna

Civil Appeal No. 469 (NT) of 1976

[1990] Supp. 3 SCR 469 | 1990-12-07

Whether a separately assessed firm taking over the Purnea cold-storage branch, while the original Calcutta firm continued, could claim the historical development rebate on machinery installed by the original firm as a mere reconstitution or successor.

33(1) | 2(47) | 256(1)

Two-judge bench | Kuldeep Singh, J. | K. Ramaswamy, J.

Assessment years: 1962-63

Separate-firm rebate claim rejected; transfer alternative left open

The AY 1962-63 section 33(1) claim failed because the appellant was a distinct assessee, not the original firm merely reconstituted or a proved statutory successor. The Court expressly declined the separate ownership-by-transfer argument for missing material and lack of prior argument; dismissal included Rs 5,000 costs. The cover's section 31(1) is inconsistent with the judicial section 33(1). Do not generalize the historical eight-year rebate or leasing illustrations to other allowances or hiring businesses. Comprehensive later treatment, current-law certification and 2025 Act mapping remain unverified.

01 FACTS OF THE CASE

The original firm, M/s Prayagchand Hanumanmal, had two equal partners and operated a Calcutta head office and a Purnea cold-storage branch from 3 May 1956. Periwal & Co. Pvt. Ltd., which had financed the cold storage and working capital, joined the Purnea venture under a deed executed and registered on 10 November 1958. In Mahabir Cold Storage the two original partners individually held 25% each and the company 50%. The new firm obtained separate registration and was separately assessed from AY 1960-61, while the original firm continued at Calcutta (physical pages 3-5/SCR 471-H-473-E).

The judgment records that the original firm installed machinery valued at Rs 5,80,055 in AY 1959-60. Development rebate was not claimed until the appellant sought it for AY 1962-63. The ITO and AAC rejected its entitlement; the Tribunal treated the appellant as the old firm reconstituted, but the High Court held that it was a distinct assessable identity rather than a reconstitution of the whole original firm (physical pages 4-5/SCR 472-D-473-E).

Alternatively, the appellant relied on Rs 3,50,000 book-account adjustments involving the old firm and the partners, with an opening balance stated as Rs 4,25,606, to argue that the capital asset had been transferred to it. That was a distinct argument from continuity of the original assessee (physical pages 5-6/SCR 473-G-474-B).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read the historical development-rebate provisions as requiring unity of ownership of the machinery and use wholly for the claimant's business during the relevant period. It described ownership as title, possession and beneficial enjoyment, and explained the limited carry-forward of unabsorbed rebate for up to eight years. A successor could benefit only in accordance with the statutory provisions and while meeting the twin conditions; continued operation of the same physical undertaking did not by itself establish succession (physical pages 6–8/SCR 474-C–476-B).

On the found facts, the original Calcutta firm and the Purnea appellant were simultaneously existing, separately registered and separately assessed identities. The original firm had not simply been reconstituted by admitting the company as a partner. Sharing two individual partners did not turn the appellant into the original owner or a statutory successor, so the Tribunal's continuity premise failed (physical page 8/SCR 476-C–H).

The Court treated the accounting entries as acknowledging a debt, potentially extending limitation under section 18 of the Limitation Act. They did not furnish the necessary material for the alternative ownership claim. After mentioning section 2(47), it expressly declined to decide the transfer issue because the relevant facts or instrument had not been established, the point had not been argued before the High Court, and there were no useful findings below. This is a limit on the decision, not a holding that every inter-firm transfer is impossible or ineffective (physical page 9/SCR 477-B–E).

The opinion also uses leasing and non-business-use illustrations when explaining unity of ownership and use. This note confines its holding to the two separately assessed firms and the unproved ownership claim. It does not elevate those illustrations into a universal rule about a taxpayer whose own business is hiring machinery; that separate issue and its later authorities have not been checked here (physical pages 7–8/SCR 475-H–476-B).

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

03 JUDICIAL DECISION

The appeal was dismissed, upholding the answer to the reference in favour of Revenue: Mahabir Cold Storage was not entitled to the claimed development rebate under section 33(1) for AY 1962-63. Costs were quantified at Rs 5,000. The Court confined its decision to the failed continuity/succession case and expressly declined the alternative ownership-by-transfer question; it made no remand (physical page 9/SCR 477-D–E).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeal dismissed; costs quantified at Rs 5,000

Historical development-rebate claim rejected on the proved firm-identity and ownership record; alternative transfer theory left undecided

Not a universal bar on statutory succession, validly proved transfers, ordinary partnership reconstitution or hiring-business allowances. No fresh adjudication of the original firm's assessment was made.

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

05 AKHB REVIEW POINT

For a carried-forward allowance, identify the precise assessee, original installation, ownership through each relevant period and the statutory route for any claimed succession. A continuing business name, common partners or use of the same machines does not settle those questions. Reconcile the partnership deeds, separate registrations, assessments and actual transfer documents before treating an unabsorbed allowance as moving with a branch.

Book entries acknowledging money owed are not a substitute for the missing legal and factual foundation of asset ownership. Equally, record the point the Court declined to decide: this judgment cannot resolve the consequences of a properly evidenced transfer on facts and statutory conditions it did not examine. Avoid transporting its historical eight-year development-rebate discussion or illustrative leasing comments into a different allowance or current-law question.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, erroneous headnote section and actual author

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 469; 471-B-H

Source role: reported metadata and judicial text

2.

Topic: Firm constitution, earlier machinery and disputed year

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: Unnumbered judicial text; SCR 471-H-473-E

Source role: judicial text

3.

Topic: Historical statutes and ownership/use conditions

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered judicial text; SCR 474-C-476-B

Source role: judicial text

4.

Topic: Separate assessee and failed continuity or succession case

Source url: [Open cited source](#)

Pdf pages: 8; 9

Paragraphs: Unnumbered judicial text; SCR 476-C-477-A

Source role: judicial text

5.

Topic: Unproved transfer theory, express non-decision and quantified costs

Source url: [Open cited source](#)

Pdf pages: 5; 6; 9

Paragraphs: Unnumbered judicial text; SCR 473-G-474-B; 477-B-E

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K. Ramaswamy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

HISTORICAL STATUTORY CONTEXT

AY 1962-63 under section 33(1), with the predecessor section 10(2)(vib) discussed because the machinery was installed in the earlier statutory period. This is not merely a 1922 Act case. The historical eight-year carry-forward discussion concerns development rebate and is not a current allowance or general depreciation rule.

IDENTIFIED PROCEDURAL HISTORY

Assessee appeal from Patna High Court judgment dated 11 September 1974 in Tax Case No. 30 of 1972. The ITO and AAC rejected the claim, the Tribunal allowed it on a reconstitution theory, and the High Court reversed on the separate identities of the old and new firms. The Supreme Court upheld the Revenue-favouring reference answer.

ROLE AND SCOPE OF EACH IDENTIFIED PROVISION

1.

Section: 33(1)

Role: Historical development-rebate ownership and business-use conditions actually decided.

2.

Section: 2(47)

Role: Definition discussed in the alternative ownership-by-transfer argument; the Court expressly declined to determine that argument for missing material and lack of prior argument.

3.

Section: 256(1)

Role: Reference route, not a separate substantive jurisdiction holding.

4.

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

Role: Development-rebate predecessor, with the Finance Acts of 1955, 1958 and 1961 described in historical statutory discussion.

5.

Section: 18, Limitation Act, 1963

Role: Book entries characterized as debt acknowledgment; this did not establish a machinery transfer.

OPERATIVE 1961 ACT PROVISIONS

33(1)

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

13e86881f4c7568a9420f84f6ec9a7a6971fbf8d5ea0ed38ded7e970ac6876fd. Original bytes preserved.

Unnumbered judgment of K. Ramaswamy J. begins on physical page 3/SCR 471-D and continues through the declined alternative transfer question and appeal dismissal with Rs 5,000 costs on physical page 9/SCR 477-D-E. Editorial headnotes and proceeding details on physical pages 1–3 read separately. No adjacent judgment.

[Open cited source rendition](#)

Printed SCR volume, date, two-member bench, author and Civil Appeal No. 469 (NT) of 1976 checked against source images. The repository identifier 1990INSC382 is not represented as an independently verified published neutral citation.

AY 1962-63 is the disputed development-rebate claim. Machinery installation is attributed to AY 1959-60; separate assessments of the new firm began with AY 1960-61. The latter two years are factual context, not additional appeals.

The printed first-page headnote says section 31(1), but the referred questions, reproduced statute and operative judicial reasoning consistently apply section 33(1). The note uses section 33(1) and preserves the unchanged original.; At SCR 476 the opinion prints section 26A “of the Act” and section 10(1)(vib) “of the repealed Act”. The historical statutory quotation at SCR 474 identifies section 10(2)(vib); no nonexistent 1961 Act section 26A registration proposition is inferred.; The database marks Kuldip Singh with an asterisk in the judges field. The judicial author line and running title expressly identify K. Ramaswamy J.; those source images control author metadata.; The first-page narrative and the judicial text have awkward installation/partnership chronology. The note preserves the expressly stated deed date and assessment years without inventing an exact installation date or silently reconciling them.; Unnumbered judicial paragraphs are pinned by PDF and SCR page; editorial numbered propositions are not judicial paragraph numbers.

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: 9](#)

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