

Sk. Ar. K. Ar. Somasundram Chettiar and Co., Madurai v. Commissioner of Income Tax, Madras

Civil Appeal Nos. 1109-1110 of 1976

[1992] 1 SCR 49 | 1992-01-15

Historical hedging exception: correlation with actual-delivery sales contracts.

Indian Income-tax Act, 1922: section 24(1), Explanation 2 and proviso clause (a); section 66(1) |
Income-tax Act, 1961: section 43(5) mentioned as corresponding provision

2-judge bench | K. Ramaswamy, J. | B. P. Jeevan Reddy, J.

Assessment years: 1960-61, 1961-62

Speculative nature conceded; historical hedging exception only

The assessee conceded that the transactions were speculative under Explanation 2. The Court decided only whether the specified hedging exception saved them. It did not decide the general reach of modern derivatives exceptions or present section 43(5).

01 FACTS OF THE CASE

A cloth-and-yarn merchant claimed losses of Rs. 2,04,746 and Rs. 17,000 in AYs 1960-61 and 1961-62. After purchasing from mills, it agreed to sell to another party and then repurchased the same goods from that party. It ultimately took delivery from the mills and sold to third parties; the intervening contracts were settled by differences. The assessee conceded speculative transactions but claimed the hedging exception. The Tribunal accepted that claim; the High Court answered the reference for Revenue.

Source: [SCR pp. 51-54](#) / [PDF pp. 3-6](#)

02 DISCUSSION BY THE HON'BLE COURT

For a merchant, clause (a) requires the protective contract to guard against price-fluctuation loss on contracts for actual delivery of merchandise sold by that merchant. Those underlying contracts must be sales for actual delivery, not purchases. Exact one-to-one matching is unnecessary, but a correlation between the two sets of contracts is required. A general intention to protect business from future loss is insufficient. The described sale-and-repurchase settlements did not satisfy that relationship. Because speculative character was conceded, the Court expressly left the broader definition issue undecided.

Source: [SCR pp. 53-56](#) / [PDF pp. 5-8](#)

03 JUDICIAL DECISION

The assessee's appeals were dismissed, with no order as to costs. The High Court's adverse answer on the claimed clause (a) exception stood. The judgment does not quantify any eventual set-off against subsequent speculation profits.

Source: [SCR pp. 55-56 / PDF pp. 7-8](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue on denial of the claimed historical hedging exception for these transactions. The case does not hold that every hedge needs a one-to-one underlying contract, nor decide whether a disputed transaction was speculative where that issue is contested.

Source: [SCR pp. 53 and 55-56 / PDF pp. 5 and 7-8](#)

05 AKHB REVIEW POINT

AKHB analysis: preserve contracts, quantity and timing records and delivery evidence showing which underlying sale exposures the protective transactions address. Distinguish lack of exact one-to-one matching from lack of any correlation. The decision concerns a merchant and the 1922 Act; although the judgment notes a corresponding 1961 provision, modern statutory exclusions and later amendments require separate verification. Do not use the conceded premise as an adjudicated rule for every commodity or derivative arrangement.

Source: [SCR pp. 53-56 / PDF pp. 5-8](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Eight-page SCR scan. Judicial body begins on PDF p. 3 / SCR p. 51 and ends with dismissal on PDF p. 8 / SCR p. 56. No numbered paragraphs; SCR/PDF pages supply pinpoints.

Open cited source rendition

Complete source judgment body read, excluding editorial headnote as independent authority; source identity and ending visually checked.

Exact source bytes match the supplied consolidated-index SHA-256; public mirror scan, not a certified court copy.

The scan contains inconsistent references including section 28 and 1929 Act, and an inconsistent appellate-stage description. The quoted statute, referred question and sustained reasoning identify section 24 of the 1922 Act; those printing/OCR slips are not adopted as separate statutory holdings.

STATUTORY SCOPE

Historical statutory text and assessment periods control. No automatic Income-tax Act, 2025 crosswalk or present-law certification.

LATER TREATMENT

Source checked 2026-10-09. Targeted official-domain searches did not yield a verified later-treatment source. Subsequent treatment remains unverified; this is not a finding of absence of later decisions.

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