

Bajaj Tempo Ltd., Bombay v. Commissioner of Income Tax, Bombay City-III, Bombay

Civil Appeal No. 1211 (NT) of 1982 / Civil Appeal No. 1257 (NT) of 1982 / Civil Appeal No. 1258 (NT) of 1982 / Civil Appeal No. 1259 (NT) of 1982 / Civil Appeal No. 1260 (NT) of 1982

[1992] 2 SCR 765 | 1992-04-24

A genuine new industrial undertaking did not lose section 15C relief merely because it used leased premises previously used for business and minor transferred tools. The disqualification required formation by the transfer. On the Tribunal's findings, the premises were not dominant in the undertaking's formation, so the assessee's appeals succeeded.

Two-judge bench | R.M. Sahai, J. | A.S. Anand, J.

Formation of a genuine new undertaking

A genuine new undertaking and the particular 'formed by transfer' condition were decisive; the judgment does not waive express eligibility conditions or require liberal construction of every tax exemption.

Operative context: Indian Income-tax Act, 1922; historical sections 15C(1), 15C(2)(i).

01 FACTS OF THE CASE

Bajaj Tempo was formed to exploit a licence to manufacture three-wheeled vehicles, with a foreign collaborator and the promoter's shareholders subscribing its capital. Its agreement with the promoter transferred manufacturing rights and other interests; the factory premises were held on lease, and tools and implements worth Rs. 3,500 were transferred.

For AY 1960-61, relief under section 15C was denied principally because the premises had previously served another business. The appellate authority and Tribunal allowed the claim, but the Bombay High Court answered the reference for Revenue. By the Supreme Court stage, the Tribunal's finding that the undertaking was genuinely new and not a reconstruction had become final.

Source: [SCR 770 B-772 B](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 15C encouraged industrialisation by relieving specified profits, limited by reference to capital employed. Its restrictions prevented old businesses obtaining relief merely through a new label. The provision and its anti-abuse condition therefore had to be read together, reasonably and purposively, to encourage genuinely new undertakings while excluding mere continuations.

The statutory word 'formed' did the essential work. Transfer or use of an old building or equipment was not, by itself, enough. The transfer had to play the constitutive role described by the restriction. Incidental use of minor tools could not automatically defeat a substantial new industrial venture.

The Court assumed, for this decision, that leasing the premises amounted to a transfer. It did not uphold the Tribunal's alternative theory that a lease could never be a transfer. Nor did it accept that previous use meant only use by the same taxpayer: use in somebody else's business could count. The taxpayer nevertheless succeeded because the lease was not dominant in forming the new undertaking.

Later changes to the 1961 Act were discussed as context, but the Court said it was unnecessary to decide their clarificatory effect. The operative construction remained that of the 1922 Act.

Source: [SCR 772 C-779 E](#)

03 JUDICIAL DECISION

The Supreme Court set aside the High Court order and answered the references for the assessee, holding that it was entitled to partial exemption under section 15C on the facts found.

Source: [SCR 779 E-G](#)

04 OUTCOME / IN WHOSE FAVOUR

All five captioned appeals allowed; references answered for the assessee. Result: Assessee. Costs: Assessee entitled to costs. Scope: Section 15C eligibility on the disputed formation condition determined. Limit: A genuine new undertaking and the particular 'formed by transfer' condition were decisive; the judgment does not waive express eligibility conditions or require liberal construction of every tax exemption.

Source: [SCR 779 E-G](#)

05 AKHB REVIEW POINT

Prove the new unit's independent identity and explain the role, value and necessity of each transferred asset. Distinguish a venture merely using old premises from one formed out of an existing undertaking. Apply the actual incentive provision and assessment-year version before carrying this reasoning into a later claim.

Source: [SCR 777 C-779 E](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

15-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

The report captions five appeals but expressly narrates AY 1960–61; it does not allocate separate years to the connected dockets. Isolated printed references to the Acts of 1972 and 1921 do not displace the repeated identification of the 1922 Act.

STATUTORY SCOPE

Indian Income-tax Act, 1922; historical sections 15C(1), 15C(2)(i).

Separately identified 1961 Act provisions, not directly adjudicated here: Section 84(2): Analogous provision mentioned in discussion of Sawyer's Asia; not adjudicated; Section 80J(4): Later legislative history discussed at SCR 776; not the operative provision or a verified current crosswalk.

Current statutory equivalence and Income-tax Act, 2025 applicability have not been verified. No automatic carry-over of this precedent is claimed.

LATER TREATMENT

Source checked 2026-10-06. Government of Kerala v. Mother Superior Adoration Convent, decided 1 March 2021, paragraph 16, expressly discusses Bajaj Tempo within the beneficial-exemption line of authority. Paragraphs 22–24 hold that Dilip Kumar's general strict-construction rule did not silently erase that line. This later case concerned Kerala building tax, not section 15C or a universal exemption rule.

Verified Mother Superior paragraphs 14–26, especially 16 and 22–24; comprehensive subsequent history remains unverified.

Mother Superior judicial reproduction, paragraphs 7–26 including final disposition; specific Bajaj discussion paragraph 16. No raw PDF/image reading claimed for the auxiliary source.

IDENTIFIED SOURCE LINKS

Government of Kerala v. Mother Superior Adoration Convent (2021-03-01)

Bounded judicial text paragraphs 7–26; focus paragraphs 14–24 and final disposition 26. Nonofficial host; no raw PDF or images read.

AI DISCLOSURE

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