

Emil Webber v. Commissioner of Income Tax, V and M, Nagpur

Civil Appeal Nos. 3115–3116 of 1980

[1993] 2 SCR 27 | 1993-02-19

Whether Indian income-tax paid contractually by Ballarpur for a foreign technician was his income and, given the absence of employment with Ballarpur, under which head that benefit fell.

2(24) | 14 | 17, held inapplicable to the tax payment on these facts | 56(1) | 195, contextual obligation

Two-judge bench | B.P. Jeevan Reddy, J. | N. Venkatachala, J.

Assessment years: 1974-75, 1975-76

Non-employer tax payment; original salary treatment preserved

The contractual tax discharge was income of the technician, taxable under other sources because Ballarpur was not his employer. The original remuneration's conceded salary treatment was not reversed. This is not a universal employer-perquisite, gross-up or withholding-default ruling. Later statutory changes and comprehensive treatment remain unverified.

01 FACTS OF THE CASE

Ballarpur contracted with the French concern Krebs for plant equipment and technical personnel. Krebs arranged supplies and personnel through a Swiss concern, and Emil Webber came to India to help set up the caustic-soda/chlorine plant. Ballarpur's contract required the personnel's salaries and emoluments to be free of Indian tax or duty (physical pages 3–4).

For AYs 1974-75 and 1975-76 the assessee received Rs 3,82,481 and Rs 67,200 respectively, apart from daily allowances and facilities. After his claim of no tax liability failed, Ballarpur paid Rs 3,23,400 and Rs 35,546 as tax for those years. The ITO added those payments to his income; the AAC, Tribunal and High Court rejected his challenge. The stated case expressly treated the original service payments as salary and equally expressly recorded that there was no employer-employee relationship between Ballarpur and the assessee (physical page 4).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court explained that the inclusive statutory definition retained the ordinary meaning of income. Payment of this tax was not gratuitous: Ballarpur undertook it as part of the contractual remuneration arrangement, it discharged a tax burden otherwise borne by the assessee, and it was integrally connected with his salary. The absence of a cash transfer of the tax amount into his own hands did not remove that benefit from income (physical page 5).

The Court also referred to Ballarpur's section 195 obligation in that context. It did not decide a separate withholding-default or penalty proceeding against Ballarpur, or formulate a new gross-up computation. The question remained the recipient's inclusion and income head (physical page 5).

Because Ballarpur was not the assessee's employer, the tax payment could not be placed under section 17 as a salary perquisite from that payer. It instead fell under section 56(1), which covers income not excluded from total income and not chargeable under the other specified heads. No exemption was claimed for this benefit. The professional-receipt and house-property authorities cited by the assessee did not resolve this contractually linked third-party payment (physical pages 6–7).

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

03 JUDICIAL DECISION

Both assessee appeals were dismissed with no costs. The tax amounts paid for him were includible in his income under the head income from other sources on the facts stated (physical pages 5–7).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Both appeals dismissed; no costs

Final inclusion and head-of-income ruling for the contractual tax payments

Not a finding that Ballarpur employed the technician, a reclassification of the conceded original salary, a payer-default adjudication, or a universal rule for every employer-paid tax arrangement.

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

05 AKHB REVIEW POINT

Identify who owes the tax, who promises to bear it, what contractual consideration supports the promise and whether the payer is the recipient's employer. The same economic benefit can raise a distinct income-head question from the underlying salary. Here the Court preserved both the conceded salary character of the original remuneration and the absence of employment with the tax payer.

Do not label every tax reimbursement a section 17 perquisite merely because it relates to salary, and do not assume non-cash discharge of a personal liability is outside income. Equally, the case does not establish a general gross-up formula or settle later exemptions and amendments applicable to other arrangements. The historical facts, legal relationship and relevant-year provisions require checking; comprehensive later treatment and 2025 mapping are unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, two years and appeal numbers

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Contract, payment amounts and stated employment facts

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Income benefit and contractual tax discharge

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Section 56 classification and distinctions

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Final dismissal and costs

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, 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

e6661a5741688df5967abc4566c115e2cc62d1ba63290064c443066887c271fc. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–7/SCR 29–33; earlier headnote and counsel/quoted-case discussion separated. No adjoining judgment.

[Open cited source rendition](#)

The cover says Webber while a body line prints Webler; the cover identity is retained. The Swiss concern's unusual spelling is not silently normalised into another entity.; The original salary amounts and the tax amounts paid on behalf are distinct; the note does not combine them into a new tax assessment or calculate iterative tax-on-tax.; The Tribunal's stated facts, quoted on page 4, expressly say the original payments were taxable as salary and Ballarpur was not the employer. The other-sources conclusion concerns the tax benefit, not a general reversal of the original salary treatment.; The reference question is inclusion under other sources. Section 195 is mentioned as context, not adjudicated as a separate default or withholding-rate controversy.; The source's discussion of a judge's past professional earnings describes a cited case under its then statutory regime, not a present exemption for such receipts.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment search is certified. Any actually checked later judgment or statute is expressly identified in this note.

IDENTIFIED SOURCE LINKS

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

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