

Commissioner of Income Tax, Calcutta v. Braithwaite and Co. Ltd.

Civil Appeal No. 1054 (NT) of 1977

[1993] 2 SCR 187 | 1993-03-03

Surtax capital base: term-loan repayment period and finality of unchallenged relief.

Companies (Profits) Surtax Act, 1964: sections 2(5), 2(8); Second Schedule, rule 1(v)

2-judge bench | Kuldip Singh, J. | N. M. Kasliwal, J.

Assessment years: 1965-66

Ancillary direct-tax coverage

Historical Companies (Profits) Surtax Act computation. This is not an interest-deduction ruling under the Income-tax Act or a general rule for every contractual time period.

Limited operative relief

Although the Court held that the whole Rs. 50 lakh loan failed the statutory test, Revenue obtained relief only for Rs. 34 lakh. The Tribunal's unchallenged Rs. 16 lakh allowance remained final.

01 FACTS OF THE CASE

A Rs. 50 lakh bank term loan under an agreement dated 1 August 1964 was repayable in five instalments, the last on 31 July 1971. For AY 1965-66 the company claimed inclusion in its capital base for the statutory surtax deduction. The Tribunal allowed only the last Rs. 16 lakh instalment; the High Court accepted the company's challenge regarding the balance. Revenue appealed.

Source: [SCR pp. 188-191](#) / [PDF pp. 2-5](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court construed the proviso to rule 1(v) as requiring repayment beyond completion of seven years. Repayment within seven years did not meet that requirement. The agreement's final repayment date fell before completion of the full seven-year period. Authorities concerning clear-day computation supported the interpretation. On that reasoning the whole loan failed the test, but finality restricted the relief available.

Source: [SCR pp. 191-192](#) / [PDF pp. 5-6](#)

03 JUDICIAL DECISION

The appeal was allowed and the High Court judgment set aside. The entire Rs. 50 lakh loan was held ineligible in principle, but Revenue's operative relief was confined to exclusion of Rs. 34 lakh because it had not challenged the Tribunal's Rs. 16 lakh allowance. Parties were left to bear their own costs.

Source: [SCR p. 192 / PDF p. 6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue as to the Rs. 34 lakh in dispute. The company retained the Rs. 16 lakh benefit solely because the relevant Tribunal order had become final, not because the Court endorsed its statutory eligibility.

Source: [SCR p. 192 / PDF p. 6](#)

05 AKHB REVIEW POINT

AKHB analysis: examine the precise repayment covenant and statutory period when reconstructing historical surtax capital. Separately map the relief challenged at each appellate stage: a favourable legal interpretation does not reopen an unchallenged final allowance. Avoid presenting the result as exclusion of the full Rs. 50 lakh in this assessment.

Source: [AKHB analysis based on SCR pp. 190-192 / PDF pp. 4-6](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Complete six-page SCR report; substantive judgment begins on PDF p. 2 and ends on p. 6.

[Open cited source rendition](#)

Full source PDF read. Page references used because the judgment has no numbered paragraphs.

Source SHA-256 agrees with the supplied consolidated index. Public eSCR mirror; not a certified copy.

OCR read the appeal number as 1034; visual inspection of SCR p. 188 confirms 1054 (NT) of 1977, matching the supplied index.

Scope classification: ancillary direct-tax statute; not an Income-tax Act, 1961 merits ruling. No 1961/2025 statutory mapping inferred.

STATUTORY SCOPE

Historical Companies (Profits) Surtax Act computation. This is not an interest-deduction ruling under the Income-tax Act or a general rule for every contractual time period.

LATER TREATMENT

Source checked 2026-10-09. Subsequent treatment has not been comprehensively verified. No current-law or citator clearance is represented.

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.

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