

## Life Insurance Corporation of India v. Commissioner of Income Tax

Civil Appeal No. 295 (NT) of 1979

[1996] 2 SCR 795 | 1996-02-19

**Whether a refund of excess income tax paid by predecessor insurers before LIC came into existence could be excluded under historical First Schedule rule 2(1)(b), when the refund had not actually appeared in LIC's own earlier actuarial surplus.**

44 | First Schedule, rule 2(1)(b) (historical life-insurance computation) | 256(1)

Two-judge bench | J.S. Verma, J. | K. Venkataswamy, J.

Assessment years: 1963-64

### Historical LIC succession; refund-figure and statutory-text cautions

This is an AY 1963-64 predecessor-tax-refund adjustment under historical section 44/First Schedule rule 2(1)(b), read with LIC Act vesting. It decides only the seventh referred question. The question prints Rs 23,39,959, but the source totals imply Rs 29,39,959; no reconciliation is supplied. The rule quotation carries a 1967 amendment footnote. Do not treat this as a generic tax-refund deduction or current-law statement. Later treatment and 2025 mapping remain unverified.

**01 FACTS OF THE CASE**

LIC was established with effect from 1 September 1956 under the Life Insurance Corporation Act, 1956. The appeal concerned AY 1963-64, with the accounting period ending 31 March 1963, and refunds of income tax from the life-insurance business. The seventh referred question identified Rs 23,39,959 as the refund relating to predecessor insurers' income tax up to AY 1956-57. Only that seventh question was challenged: the Bombay High Court had already answered the first six questions in LIC's favour, and the Supreme Court expressly left them outside the appeal (physical page 4 / SCR 798).

The judgment records aggregate refunds of Rs 3,02,90,898. The ITO brought the whole amount into the revenue account; the Appellate Assistant Commissioner excluded Rs 2,73,50,939, and both sides appealed to the Tribunal. The Tribunal held that only refunds already reflected in an earlier inter-valuation surplus of LIC itself could be excluded. It sustained the exclusion of Rs 2,73,50,939 and rejected the remainder because the relevant assets had not entered LIC's earlier surplus. The aggregate less the permitted exclusion is Rs 29,39,959, whereas the referred question prints Rs 23,39,959. This Rs 6,00,000 discrepancy exists in the source and is not resolved or silently corrected in this note (physical pages 4-6 / SCR 798-800).

LIC relied on the statutory transfer of the insurers' controlled businesses to it. Revenue maintained that the words "included therein" in rule 2(1)(b) required actual inclusion in the same assessee's earlier inter-valuation surplus, not that of a predecessor. The Bombay High Court accepted that narrow reading in its judgment dated 4 November 1977 in I.T.R. No. 35 of 1968, reported as (1978) 115 ITR 45; LIC appealed by special leave (physical pages 3-7 / SCR 797-801).

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

## 02 DISCUSSION BY THE HON'BLE COURT

The Court read the historical actuarial-surplus rule together with LIC's statutory succession. The branch in dispute used the annual average of the adjusted surplus disclosed by the Insurance Act, 1938 actuarial valuation for the last inter-valuation period ending before the assessment year, excluding surplus or deficit made in earlier inter-valuation periods (physical pages 9–10 / SCR 803–804). Section 7(1) of the LIC Act transferred and vested the assets and liabilities of the insurers' controlled business in LIC from the appointed day. Section 7(2) extended the transferred assets to their rights and interests, including amounts due but still recoverable. Section 9(2) allowed pending proceedings concerning the controlled business to continue by or against LIC. In that statutory capacity, LIC inherited both recoverable amounts and tax liabilities; it received the predecessor-tax refund because the relevant rights had vested in it (physical pages 7–9 / SCR 801–803).

It was undisputed that the opening balance inherited from the insurers had to be deducted under rule 2(1)(b), and had been deducted. Had the predecessors not overpaid the tax, the money would have remained in that opening balance and been excluded under the rule. The Court therefore carried section 7(2)'s legal fiction to its logical conclusion: the later refund of that excess tax formed part of the inherited assets and was deemed included in LIC's earlier opening balance and inter-valuation surplus. On that basis the rule's requirement was satisfied in relation to LIC itself. "Included therein" was capable of including this legally deemed inclusion, rather than only a historical accounting entry that LIC could not have made before its formation (physical pages 9–10 / SCR 803–804).

The maxim *lex non cogit ad impossibilia* reinforced that construction, but the operative reasoning rested on the specific vesting provisions and the historical computation rule. The Court did not confer a general power to alter any actuarial valuation or excuse any unmet deduction condition. It also drew on *Bombay Mutual Life Assurance Society Ltd. v. CIT*, (1951) 20 ITR 189, for the proposition that amounts already treated in law as part of surplus should not be taxed again merely because they appear in an actuarial valuation later. That authority's Rs 2,72,946 and Rs 1,00,000 were examples in the quoted precedent, not additional refunds in LIC's appeal. Harmonious construction of section 7 and rule 2(1)(b) gave effect to both (physical pages 10–12 / SCR 804–806).

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

## 03 JUDICIAL DECISION

LIC's appeal was allowed. The judgments of the High Court and Tribunal were set aside, and the seventh referred question was answered in favour of LIC and against Revenue. The predecessor-tax refund could be excluded in the historical rule 2(1)(b) computation because it was deemed included in the inherited opening balance and earlier inter-valuation surplus. The Court made no order as to costs ("No costs") and gave no fresh arithmetical assessment or reconciliation of the differing refund figures (physical page 12 / SCR 806).

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

#### 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee (Life Insurance Corporation of India)

Civil Appeal No. 295 (NT) of 1979 allowed; High Court and Tribunal judgments set aside; seventh referred question answered for LIC; no costs

Final reasoned merits determination of the predecessor-tax-refund question

AY 1963-64 and the historical life-insurance computation, read with LIC Act statutory vesting. Six other referred questions were not before the Supreme Court. This is not a general deduction for taxes paid or a rule that every income-tax refund is non-taxable.

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

#### 05 AKHB REVIEW POINT

Identify the precise tax and business history before applying this decision: which predecessor paid the excess tax, the period to which it related, whether the refund right formed part of the controlled business vested in LIC, and how the inherited opening balance and actuarial valuations were treated. The decisive adjustment was an exclusion within the special historical life-insurance computation, supported by statutory succession. It should not be restated as an ordinary deduction for income-tax expenditure or applied to an unrelated successor without examining the governing vesting provisions.

Reconcile the refund ledger with both the referred question and the amounts excluded below before relying on a quantum. The printed Rs 23,39,959 cannot simply be replaced with the arithmetical Rs 29,39,959, nor does the decision award the full aggregate refund as a new deduction. Keep the amounts in the quoted Bombay Mutual precedent separate. The Court's treatment prevents duplication within this particular surplus mechanism; it is not independent proof that every refunded sum was previously taxed.

Use the statutory version for the relevant assessment year. The source quotes a rule with a 1967 amendment footnote even though the assessment is for 1963-64; that source limitation must remain visible. No present-law deduction, automatic mapping to the Income-tax Act, 2025, or verified later-treatment conclusion follows from this historical note.

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

#### PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

**Topic:** Identity, date, appeal number and High Court provenance

**Source url:** [Open cited source](#)

**Pdf pages:** 1; 3

**Paragraphs:** Unnumbered judicial text; physical page numbers refer to this exact rendition

**Source role:** reported metadata

2.

**Topic:** Seventh question only; AY 1963-64; refund figures and scope

**Source url:** [Open cited source](#)

**Pdf pages:** 4; 5; 6

**Paragraphs:** Unnumbered judicial text; physical page numbers refer to this exact rendition

**Source role:** judicial text

3.

**Topic:** Tribunal and High Court reasoning rejected

**Source url:** [Open cited source](#)

**Pdf pages:** 5; 6; 7

**Paragraphs:** Unnumbered judicial text; physical page numbers refer to this exact rendition

**Source role:** judicial text

4.

**Topic:** LIC Act sections 7 and 9; inherited rights and opening balance

**Source url:** [Open cited source](#)

**Pdf pages:** 7; 8; 9

**Paragraphs:** Unnumbered judicial text; physical page numbers refer to this exact rendition

**Source role:** judicial text

5.

**Topic:** Historical rule quotation, 1967 footnote and deemed inclusion

**Source url:** [Open cited source](#)

**Pdf pages:** 9; 10

**Paragraphs:** Unnumbered judicial text; physical page numbers refer to this exact rendition

**Source role:** judicial text

6.

**Topic:** Quoted Bombay Mutual authority and harmonious construction

**Source url:** [Open cited source](#)

**Pdf pages:** 11; 12

**Paragraphs:** Unnumbered judicial text; physical page numbers refer to this exact rendition

**Source role:** judicial text

7.

**Topic:** Appeal allowed, seventh question answered and no costs

**Source url:** [Open cited source](#)

**Pdf pages:** 12

**Paragraphs:** Unnumbered judicial text; physical page numbers refer to this exact rendition

**Source role:** judicial text

## **JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS**

J.S. Verma, J.

**ACT IDENTIFIED IN THE REVIEWED SOURCE**

Income-tax Act, 1961 (historical provisions)

**SOURCE & VERIFICATION**Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 12 PDF pages; SHA-256

6c760596a88e65ac5274038614687d197a8020f6d8d16e2ae0811dbc43f67e7f. Original bytes preserved.

Complete judicial text physical pages 4–12 / SCR 798–806; editorial headnote pages 1–3 separated. The seventh of seven referred questions alone was before the Supreme Court; the six favourable High Court answers are outside this appeal.

Historical statutory text, predecessor-refund facts and quoted 1951 precedent separately identified.

Open cited source rendition

The seventh question on physical page 4 / SCR 798 prints Rs 23,39,959, while Rs 3,02,90,898 less Rs 2,73,50,939 equals Rs 29,39,959. The Rs 6,00,000 discrepancy is visible in the PDF and unresolved; preserve the quoted question and aggregate figures rather than silently correcting either.; Only AY 1963-64 is the appealed assessment. "Up to AY 1956-57" describes the predecessor-tax periods, not an additional Supreme Court appeal group. The six other referred questions are expressly outside this appeal.; The PDF confirms Civil Appeal No. 295 (NT) of 1979, decision dated 19 February 1996, and the High Court order dated 4 November 1977. Ingestion metadata omits the NT designation. The PDF spells the second judge K. Venkataswamy; metadata spells VENKATASWAMI. The displayed name follows the source caption.; The source's quotation of rule 2(1)(b) includes sections 30 to 43-A with a footnote recording substitution by the Finance (No. 2) Act, 1967, effective 1 April 1967. Do not silently treat that entire quotation as a verified verbatim AY 1963-64 statutory text.; The headnote has compressed/inexact wording about the assessee's refund contention. The judicial text on page 4 clearly records LIC's contention that the entire refund was not includable in revenue account; use that judicial account. References in the headnote or quoted Tribunal passage to "section" or "u/s. 2(1)(b)" mean the historical First Schedule rule, not a separate section 2(1)(b) holding.; Rs 2,72,946 and Rs 1,00,000 on SCR 805 belong to the quoted Bombay Mutual Life Assurance Society precedent. They are not components of the refund at issue here.; No later judgment or separate historical statute source has been independently reviewed for this note; quoted authorities are not subsequent judicial treatment.

Section 44 and historical First Schedule rule 2(1)(b) govern the life-insurance computation in issue; section 256(1) supplies the reference procedure. Sections 7(1)–(2) and 9(2) of the Life Insurance Corporation Act, 1956 supply the succession/vesting foundation. The quoted rule includes a 1967 substitution footnote; it is not certified here as a complete verbatim statutory reproduction applicable to AY 1963-64. No generic business-expense or section 41(1) holding is inferred.

**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. Later judicial treatment has not been independently verified. Precedents discussed inside this judgment are distinguished from later treatment of this judgment.

**IDENTIFIED SOURCE LINKS**reported judgment - PDF pages: 12

SHA-256: 6c760596a88e65ac5274038614687d197a8020f6d8d16e2ae0811dbc43f67e7f

**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.

**PROFESSIONAL DISCLAIMER**

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.