

Commissioner of Income Tax, Bombay v. Bombay Dyeing and Manufacturing Co. Ltd.

Civil Appeal Nos. 593–594 of 1978

[1996] 3 SCR 65 | 1996-02-29

Whether the two Tribunal findings supported revenue deduction of amalgamation legal charges and a housing-board contribution, so that refusal to direct a reference was justified.

256(2)

Two-judge bench | B.P. Jeevan Reddy, J. | M.K. Mukherjee, J.

Assessment years: See the source-scope notes; no year inferred.

Two fact-specific deductions and a later amalgamation-expense regime

The Tribunal's findings supported solicitors' fees and housing-board contributions; the assessee acquired no housing asset. This does not allow every merger cost or capital purchase. Later section 35DD separately governs qualifying amalgamation expenditure, with specified dates and amortisation. The report gives no assessment year and cites 1922 Act authorities while deciding section 256(2); no missing year or deduction-section citation is invented.

01 FACTS OF THE CASE

The assessee paid Rs 10,350 in solicitors' fees for amalgamation with Nawrosjee Wadia Ginning and Pressing Company. The Tribunal found the businesses complementary and the amalgamation necessary for smooth and efficient business conduct, and allowed the expense after the ITO and first appellate authority had rejected it (physical pages 2–3).

The assessee also contributed Rs 2,25,000 to the Maharashtra Housing Board for workers' tenements. The Tribunal found that the Board retained ownership, the assessee acquired no capital asset or ownership right, and the payment served efficient conduct through a contented workforce. Revenue sought reference of both questions under section 256(2); the High Court refused. The reported order specifies no assessment year (physical pages 2 and 4–5).

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

02 DISCUSSION BY THE HON'BLE COURT

For the legal charges, the Court endorsed the Tribunal's business finding and used Bombay Steam Navigation's treatment of business-connected amalgamation interest as an analogy. It did not reclassify every acquisition cost or the price of acquiring the other company as revenue expenditure. The payment before it was the specified solicitors' charge in the proved business setting (physical pages 3–4).

For the housing contribution, the absence of a capital asset acquired by the assessee and the labour-welfare purpose were central. The Court preferred L.H. Sugar, concerning road expenditure, and T.V. Sundaram, concerning employee housing, over the Travancore-Cochin road-construction authority invoked by Revenue. An enduring benefit argument did not overcome the particular findings here (physical pages 4–5).

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

03 JUDICIAL DECISION

Both Revenue appeals were dismissed without costs. The High Court was justified in refusing the section 256(2) reference, leaving the two revenue-expenditure deductions intact. No new assessment calculation, ownership right or general rule for every amalgamation or housing payment was declared (physical page 5).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Two Revenue appeals against refusal of reference dismissed; no costs

Final reasoned endorsement of the two fact-specific deduction conclusions

No blanket deduction of acquisition price, every merger cost or every employee-housing asset, and no quantified tax/refund computation.

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

05 AKHB REVIEW POINT

Identify exactly what was bought or paid for and what asset or right, if any, the taxpayer acquired. In the first issue the payment was legal charges in a business-linked amalgamation; in the second the houses belonged to the Housing Board. Those facts matter more than a label such as acquisition or enduring benefit alone.

The amalgamation-expense issue has important later statutory context. The checked 2011 text of section 35DD provides a deduction of one-fifth in each of five successive previous years, beginning with the year of amalgamation or demerger, for qualifying expenditure by an Indian company incurred on or after 1 April 1999, and bars another provision's deduction for that expenditure. Its insertion took effect from 1 April 2000. The historical immediate-deduction result here must not override that later rule. This bounded comparison does not decide a present transaction's eligibility or the treatment of later employee-welfare or CSR payments.

The headnote labels section 10(2)(xv) of the 1922 Act, and that provision appears in the body's discussion of earlier authorities. The operative appeal concerns section 256(2) reference refusal. The report does not explain the headnote's statutory classification. The report does not state the assessment year or separately identify a general deduction section; preserve that source limit. Comprehensive later judicial treatment and 2025 Act mapping remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, missing assessment year and two proposed questions

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Solicitor fee and fact-specific business nexus

Source url: [Open cited source](#)

Pdf pages: 2; 3; 4

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Housing ownership, employee welfare, precedent distinction and final dismissal

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Later five-year amortisation and exclusivity

Source url: [Open cited source](#)

Pdf pages: 275

Paragraphs: Section 35DD(1)–(2), footnote 4

Source role: bounded historical statutory text

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 5 PDF pages; SHA-256

aa8f4f76d34939e05ae61e57e341722698a91b542347da94aefe6020a0b49116. Original bytes preserved.

Complete judicial order physical pages 2–5/SCR 66–69, deciding the two proposed business-expenditure questions on Revenue's reference-refusal appeals.

[Open cited source rendition](#)

The assessment year is absent. None is inferred from the 1977 High Court order, 1978 appeal numbers or 1996 decision date.; The headnote names section 10(2)(xv) of the 1922 Act; the body invokes that provision while discussing Bombay Steam Navigation and separately decides the 1961 Act section 256(2) refusal. It does not supply an express section 37 citation for this assessee.; The amounts Rs 10,350 and Rs 2,25,000 concern different questions. No combined tax saving or quantified refund is calculated.; The earlier Bombay Steam Navigation interest arrangement and the road-construction precedents are separate cases, not facts of the present amalgamation or housing scheme.; The reported business description uses complimentary; the note conveys its contextual meaning of complementary businesses without altering the original source.; The later section 35DD rule and its two different dates, expenditure cutoff and insertion commencement, are separate statutory context. The 1996 order did not decide that rule.

Section 256(2) is the express procedural provision. The source headnote labels 1922 Act section 10(2)(xv), and the judicial body discusses that provision in earlier precedents; no unprinted assessment year or operative section 37 citation is invented.

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: 5](#)

SHA-256: aa8f4f76d34939e05ae61e57e341722698a91b542347da94aefe6020a0b49116

[official department hosted historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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