

Commissioner of Income Tax v. Karam Chand Thapar and Others

Civil Appeal Nos. 4551–4558 of 1990

[1996] Supp.4 SCR 651 | 1996-08-14

Whether coal-agency under-charge receipts and their unspent surplus were business income where the agent collected money before customer demands and failed to establish that it held the receipts in trust.

Two-judge bench | B.P. Jeevan Reddy, J. | Suhas C. Sen, J.

Assessment years: 1953-54, 1956-57, 1957-58, 1958-59, 1959-60, 1960-61, 1961-62, 1962-63

Mixed historical years; unproved trust and no automatic write-back rule

This combined decision spans seven earlier assessment years and AY 1962-63. It does not identify a numbered charging section. Its trading-receipt conclusion rests on the ownership and agency facts proved, not merely a write-back or expired limitation period. The monetary table is incomplete and has a rounding difference. Later treatment, current-law application and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The assessee acted as del credere agent of collieries and also as agent of coal purchasers. Purchasers paid railway freight for a full wagon even when it was underloaded. The assessee routinely claimed “under-charges” from collieries before any purchaser demanded reimbursement, paid purchasers when they claimed, and transferred recurring surplus to its profit and loss account (physical pages 4–7 / SCR 654–657).

The referred question covered eight assessment years: 1953-54, 1956-57, 1957-58, 1958-59, 1959-60, 1960-61, 1961-62 and 1962-63. For AY 1953-54, the quoted Appellate Assistant Commissioner’s order substituted the year’s net surplus, rounded to Rs 99,864, for the Rs 55,197 transferred to profit and loss and assessed by the ITO, an enhancement of Rs 44,667. These figures concern that quoted lower-authority computation, not a quantified Supreme Court award across all eight appeals. The source’s table later prints Rs 99,863 as the net figure for that year (physical pages 6–7 and 19 / SCR 656–657 and 669).

The Tribunal accepted the claim that these were not trading receipts, relying on cases involving clients’ money. The Calcutta High Court upheld that conclusion in its judgment of 5 April 1978 in I.T.R. No. 136 of 1970. Revenue appealed (physical pages 3 and 7–8 / SCR 653 and 657–658).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court treated ownership and the actual business arrangement as decisive. No agency contract or other evidence established that the collieries' payments belonged to the consignees from receipt. The assessee collected regardless of customer demands, retained the surplus as its own, did not show it as a liability or suspense balance, and had repeatedly credited it to profit and loss. These circumstances undermined the asserted trust; accounting treatment was considered with the evidence rather than substituted for a proved fiduciary relationship (physical pages 8–11 and 18–22 / SCR 658–661 and 668–672).

Morley v. Tattersall was distinguished because the auctioneer there held proceeds of customers' property under an existing obligation to pay, with no relevant change in beneficial ownership. The Court rejected the absolute proposition that a receipt could never acquire trading character later. It discussed Jay's the Jewellers and Elson to explain different situations in which a trader later became entitled to money or already owned it subject to a contingency. Those English examples are explanatory precedents, not findings that a specified limitation period had expired for every coal customer in these appeals (physical pages 11–18 / SCR 661–668).

For the actual under-charge business, the money belonged to the assessee subject to the possibility of customer claims. Payments made on such claims were trading expenses. The receipts did not cease to be trading receipts merely because some amounts might later be paid out, and the excess over expenditure was taxable business profit. Bijli Cotton Mill and Sandersons and Morgans involved established money held for others and therefore did not govern these facts (physical pages 19–22 / SCR 669–672).

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

03 JUDICIAL DECISION

The Court answered the referred question in the negative and in favour of Revenue, and allowed all eight appeals. Under-charge receipts were trading receipts; customer payments were trading expenses and the surplus was taxable business profit. Each party was to bear its own costs. The operative order gives no final year-by-year tax computation (physical page 22 / SCR 672).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Civil Appeal Nos. 4551–4558 of 1990 allowed; referred question answered in the negative; parties to bear their own costs

Final reasoned merits determination of the referred trading-receipt question

Mixed historical 1922/1961 years. The holding rests on the ownership and business facts proved here; it is not a universal rule that an accounting write-back, lapse of time or unclaimed balance automatically creates taxable income.

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

05 AKHB REVIEW POINT

Build the analysis around who owned the receipt and why, before relying on an accounting entry. Relevant evidence includes the agency contract, any obligation to collect for a named customer, the legal basis for customer claims, ledger treatment and actual handling of funds. Here the absence of proof of entrustment was central, and the Court classified actual customer reimbursements as business expenditure.

Keep receipt-year trading surplus separate from the amount merely transferred to profit and loss in a particular year. The quoted AY 1953-54 computation illustrates why they need not be equal. Do not extrapolate the incomplete table into figures for later years. The discussion of limitation and later conversion of money in English cases also does not establish a section 41(1) remission or cessation holding for these appeals.

This is a combined historic decision including AY 1962-63, not a 1961-only assessment record. The earlier years remain visibly identified, and no numbered charging provision absent from the source has been supplied. Later treatment and any present statutory application remain to be verified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, eight-appeal group and exact assessment years

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

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

Source role: reported metadata and judicial text

2.

Topic: Business arrangement, quoted lower-authority computation and appeal history

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6; 7; 8

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

Source role: judicial text

3.

Topic: Missing trust evidence and significance of accounts

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11; 13

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

Source role: judicial text

4.

Topic: Distinguishing Tattersall and the scope of later-conversion examples

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13; 14; 15; 16; 17; 18

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

Source role: judicial text

5.

Topic: Material monetary table and trading-receipt / expenditure holding

Source url: [Open cited source](#)

Pdf pages: 19; 20; 21; 22

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

Source role: judicial text

6.

Topic: Negative answer, appeals allowed and own costs

Source url: [Open cited source](#)

Pdf pages: 22

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

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Suhas C. Sen, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 / Indian Income-tax Act, 1922 (mixed assessment years)

SOURCE & VERIFICATION

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

Identified source rendition: 22 PDF pages; SHA-256

a45e3fb6ab2835971e840fb3bea6d95788989203b1d076e0f88aa28965eee203. Original bytes preserved.

Complete judicial text physical pages 4–22 / SCR 654–672; editorial headnote pages 1–3 separated. Eight appeals, mixed 1922/1961 assessment years, quoted lower-authority findings, English precedents and final answer individually distinguished.

[Open cited source rendition](#)

The operative question includes eight years through AY 1962-63, while the headnote names both the 1922 and 1961 Acts. Retain that mixed scope; do not re-label all years as governed by the 1961 Act.; The caption is Civil Appeal Nos. 4551–58 of 1990, not only No. 4551 shown by the ingestion metadata. The source date is 14 August 1996.; The quoted ITO passage contains irregularly printed amounts and the table's AY 1953-54 net Rs 99,863 differs from the AAC's expressly rounded Rs 99,864. The original slash-form fractional amounts are not silently converted into decimal rupees.; The table at physical page 19 gives incomplete details for 1958-59 onwards and does not supply figures for all eight years. Missing values are not zero.; Tattersall, Jay's, Elson, Bijli Cotton Mill and Sandersons and Morgans are authorities discussed within this judgment; their facts must not be imported into the present assessee's record.; No comprehensive later-treatment or present-law check, and no Income-tax Act, 2025 mapping, is certified.

The source expressly describes a mixed Income-tax Act, 1961 / Indian Income-tax Act, 1922 dispute and includes AY 1962-63 in the operative referred question. It states no numbered charging provision. No section 28 or section 41(1) tag 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: 22](#)

SHA-256: a45e3fb6ab2835971e840fb3bea6d95788989203b1d076e0f88aa28965eee203

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