

Ballimal Naval Kishore and Another v. Commissioner of Income Tax, Bombay

Civil Appeal No. 646 of 1981

[1997] 1 SCR 179 | 1997-01-10

The Rs. 62,977 claimed for structural work formed part of a total renovation of the cinema theatre. It was capital expenditure, not deductible current repairs under section 10(2)(v) of the 1922 Act. The Supreme Court dismissed the assessee's appeal.

Two-judge bench | B.P. Jeevan Reddy, J. | K.T. Thomas, J.

Total renovation, not current repairs

The holding concerns total renovation under 1922 section 10(2)(v); it does not make every substantial repair capital or decide a separate section 37 claim.

Operative context: Indian Income-tax Act, 1922; historical sections 10(2)(v), 66(1).

01 FACTS OF THE CASE

The assessee ran Naval Talkies at Panipat in a building bought as a ginning factory in 1937 and converted into a cinema in 1945. Between 1960 and March 1961, the theatre closed while extensive work was carried out. New machinery, furniture, sanitary fittings and electrical wiring were installed, alongside repairs to the walls, hall, flooring, roof, doors, windows and stage sides.

The disputed deduction was Rs. 62,977 for the structural work. The separately reported machinery and fittings expenditure explains the wider renovation; it is not an additional amount allowed or disallowed by the referred question. The officer and first appellate authority rejected the claim, the Tribunal allowed it, and the Bombay High Court answered the reference for Revenue.

Source: [SCR 180 E-181 C](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court stressed that the statute allowed current repairs, rather than every kind of repair. It approved the New Shorrocks test: expenditure must preserve or maintain an existing asset, rather than create a new asset or secure a new or different advantage. The commercial need for repairs matters; the expression is not confined to petty work performed periodically.

The nature of the whole project defeated this claim. Alongside extensive work on the building, the taxpayer installed new machinery and furnishings. The Court characterised the project as total renovation and upheld its capital character. The judgment mentions the original Rs. 17,000 purchase price and approximately Rs. 1,20,000 spent on the overall renovation, but does not prescribe a numerical cost threshold for current repairs.

The Court observed that the same expression appeared in sections 30(a)(ii) and 31(i) of the 1961 Act. Its actual decision nevertheless interpreted section 10(2)(v) of the 1922 Act.

Source: [SCR 181 D-183 A](#)

03 JUDICIAL DECISION

Adopting New Shorrocks's preservation-and-maintenance test, the Supreme Court held that this total renovation did not qualify as current repairs and affirmed the High Court's rejection of the deduction.

Source: [SCR 182 F-183 A and dismissal](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal dismissed; disallowance of the Rs. 62,977 claim upheld. Result: Revenue. Costs: No costs. Scope: Deductibility as current repairs and capital character of this renovation decided. Limit: The holding concerns total renovation under 1922 section 10(2)(v); it does not make every substantial repair capital or decide a separate section 37 claim.

Source: [SCR 182 F-183 A and dismissal](#)

05 AKHB REVIEW POINT

Describe precisely what asset existed before the work and what remained afterwards. Separate maintenance from replacement of an independent asset, and document the purpose and extent of the project. Ballimal supports examining the work as a whole; its conclusion cannot be reduced to the size of the bill or the description 'repairs' in the accounts.

Source: [SCR 181 D-182 H](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

5-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

The report identifies the expenditure period but does not specify an assessment year. No assessment year is inferred here.

STATUTORY SCOPE

Indian Income-tax Act, 1922; historical sections 10(2)(v), 66(1).

Separately identified 1961 Act provisions, not directly adjudicated here: Section 30(a)(ii): Same expression noted at SCR 181 D; not the operative provision; Section 31(i): Same expression noted at SCR 181 D and later applied in Saravana Spinning Mills; not Ballimal's operative provision.

Current statutory equivalence and Income-tax Act, 2025 applicability have not been verified. No automatic carry-over of this precedent is claimed.

LATER TREATMENT

Source checked 2026-10-06. In CIT v. Saravana Spinning Mills (P) Ltd., decided 10 August 2007, paragraph 12 expressly applied Ballimal's approved test under section 31(i). Paragraphs 11-15 distinguish current repairs from the broader revenue/capital inquiry and leave section 37(1)'s applicability undecided. This is verified specific later Supreme Court use.

Verified Saravana Spinning Mills paragraphs 11-15, including the express Ballimal citation in paragraph 12; comprehensive subsequent history remains unverified.

Saravana Spinning Mills judicial text, paragraphs 1-15 and disposition, read on a nonofficial host; no raw PDF/image verification.

IDENTIFIED SOURCE LINKS

[CIT v. Saravana Spinning Mills \(P\) Ltd. \(2007-08-10\)](#)

Judicial text from paragraph 1 through disposition, especially paragraphs 11-15; website's separate AI summary not relied upon. Nonofficial host; no raw PDF or images read.

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