

Commissioner of Income Tax, Bombay v. M/s. Banque Nationale De-Paris

Civil Appeal No. 6087 of 1983

[1997] 3 SCR 216 | 1997-03-21

Whether government-securities interest of this non-resident company can enter the broad clause (x) adjustment, or must retain its distinct 1961 Act securities-interest character and be dealt with under clause (vi).

14(B) (as then in force) | 18 (as then in force)

2-judge bench; one opinion | S.C. Agrawal, J. | G.B. Pattanaik, J.

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

IMPORTANT: OMITTED SECURITIES-INTEREST HEAD AND HISTORICAL SUPER PROFITS TAX

This judgment applies the former separate interest-on-securities head in 1961 Act sections 14(B) and 18 to a Super Profits Tax Act 1963 adjustment. The judgment itself notes the omission of head B from 1 April 1989; bounded departmental material corroborates that change. It does not establish a present separate head, a current non-resident exemption, a general deduction for every government security, or any rule deciding the unpressed allocation question. Full current-law/later-treatment checks and Income-tax Act 2025 mapping remain unverified. The preserved eSCR mirror report contains numerical and drafting anomalies and is not an independently authenticated signed original.

01 FACTS OF THE CASE

Revenue's Civil Appeal 6087/1983 arose from the Bombay High Court's judgment of 30 January 1979 in Income Tax Reference 86/1970. The Tribunal had referred two questions under section 256(1) of the Income-tax Act 1961. Both were answered for the assessee in the High Court. The first concerned government-securities interest and the choice between clauses (vi) and (x) of Rule 1 in the First Schedule to the Super Profits Tax Act 1963; the second concerned the expenses/borrowing-interest allocation used to arrive at net interest from advances to Indian concerns (physical 2-3/SCR 217-218).

Banque Nationale was a non-resident company which, the judgment records, had made no arrangements for declaration and payment of dividends in India during calendar year 1961. Government-securities interest of Rs. 2,18,802 had entered its total income. It claimed exclusion in arriving at chargeable profits under clause (x), treating that clause's wide expression concerning any interest received by a qualifying non-resident company from government, a local authority or an Indian concern as controlling. The Super Profits Tax Officer refused that treatment. The Appellate Assistant Commissioner accepted the legal claim with quantum reductions; the Tribunal agreed that clause (x) embraced government interest irrespective of source and dismissed Revenue's appeal. The High Court answered the first reference question in the assessee's favour (physical 3-4/SCR 218-219).

The second question concerned interest on advances to Indian concerns, stated as Rs. 12,93,828 in the reference and appellate computation, but Rs. 12,93,822 in an intervening narrative. Total interest receipts were stated as Rs. 25,19,560. The reference contrasted proportionate borrowing interest of Rs. 5,19,804 with total interest paid of Rs. 10,12,252. The appellate computation also used expenses of Rs. 5,51,207, total deductions Rs. 10,71,011 and net interest Rs. 2,22,817. These are recited computation components, not Supreme Court awards. Several other printed figures conflict and are retained in the amount/anomaly schedule below. After argument, Revenue expressly did not press this second question; the Supreme Court therefore declined to deal with it (physical 3-5/SCR 218-220).

The live issue was accordingly classification of government-securities interest and the governing schedule clause, not a fresh trial of the banking figures, a quantified refund or a general challenge to all adjustments under the Super Profits Tax Act. The judgment does not state an assessment-year label; the calendar-year recital is left in its own terms.

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

02 DISCUSSION BY THE HON'BLE COURT

G.B. Pattanaik J. delivered the sole opinion for himself and S.C. Agrawal J. The Court first kept the two statutory stages distinct. Super Profits Tax Act section 2(5) started from total income computed under the 1961 Act and then required the adjustments in the First Schedule; section 4 imposed the super profits tax by reference to the excess over the standard deduction. The dispute lay in the adjustment stage, but the schedule's own language made the 1961 classification consequential (physical 5-6/SCR 220-221).

Clause (vi), as reproduced, addresses income chargeable under the 1961 Act's securities-interest head derived from specified tax-free Central Government securities or State Government securities issued income-tax-free with the tax payable by the State. That qualification must not disappear from the note merely because the later judicial narrative abbreviates the clause as government-securities interest. Clause (x) addresses a non-resident company without prescribed Indian dividend arrangements and its interest or technical-service fees from the identified public/Indian sources. The assessee relied on the breadth of any interest, the prohibition on supplying words in an unambiguous provision, and the claim that its status-specific clause was the more particular provision. Revenue answered that the source/head-specific rule controlled securities interest; clause (x) supplied an additional deduction for other interest (physical 6-7/SCR 221-222).

The Court accepted Revenue's position through an express application of the 1961 Act. It examined section 14's heads, identified the former head B for interest on securities and discussed section 18's treatment of government securities and the listed other securities. It expressly noted that head B had been omitted by the Finance Act 1988 with effect from 1 April 1989 but existed in the relevant period. The connection with clause (vi) was not loose analogy: the Court said the clause was necessarily referable to section 14(B) for the head and section 18 for the type of security. Neither provision changed classification by the recipient's non-resident status. The government-security receipt accordingly remained securities interest when the Super Profits Tax adjustment was selected (physical 7-8/SCR 222-223).

United Commercial Bank Ltd. v. CIT, 32 ITR 688 (1957), supplied supporting reasoning from the 1922 Act: income specifically assigned to the securities head was not charged under another head just because the securities were a banker's trading assets. The judgment recounts that precedent's business/set-off context and quotes its mutually exclusive-head analysis. It expressly acknowledges that the older case was not a direct authority on the Super Profits Tax schedule, then applies its principle to the 1961 Act head and the present schedule conflict. This does not create a new set-off holding in Banque, nor does it decide a post-omission securities-income classification (physical 8-10/SCR 223-225).

The dispositive reasoning is that the interest's character and incidence under the 1961 Act are not altered because a non-resident company earns it. The adjustment must therefore proceed under clause (vi), rather than the broad clause (x) treatment accepted below. Clause (x) can operate additionally for the qualifying non-resident's other interest not covered by clause (vi). That conclusion resolves the legal question; the judgment does not identify the

02 DISCUSSION BY THE HON'BLE COURT

final assessed super profits tax, calculate the resulting deduction or order a quantified payment (physical 10/SCR 225).

The retained report's headnote and text require careful separation. The headnote's categorical inclusion language should not replace the Court's direction to apply clause (vi), with its reproduced conditions. The text also says five heads while listing A-F including the historical head B. These drafting features do not justify rewriting the source or broadening the ratio. Bounded official departmental section 14 text labelled year 2000 corroborates the 1 April 1989 omission, but does not independently authenticate the original applicable-year text or certify present law.

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

03 JUDICIAL DECISION

The Supreme Court allowed Revenue's sole appeal, set aside the impugned High Court judgment and answered the first reference question for Revenue and against the assessee. The securities-interest adjustment was governed by clause (vi), not clause (x), of Rule 1 in the First Schedule to the Super Profits Tax Act 1963. The second reference question was not pressed and was not decided on its merits. The broad operative wording setting aside the judgment must be read with that express limitation; the note does not represent the Court as deciding the allocation question adversely to the assessee. No express costs direction, remand, quantified tax, refund or payment appears in the reported disposition (physical 5/SCR 220 D-E; physical 10/SCR 225 D-F).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the sole pressed question

Appeal allowed; first reference answer reversed

Final substantive classification/application of historical 1961 sections 14(B) and 18 within the Super Profits Tax computation

Second question unpressed; no quantified relief or general tax-free treatment of government securities

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

05 AKHB REVIEW POINT

Start with the statute's version and the income's legally assigned head, then read the separate levy's adjustment language. Banque shows why a recipient-based category cannot automatically displace an incorporated source-based classification. For research on a historical securities receipt, retain the security's terms, the applicable-year charging/classification rules and the exact clause (vi) conditions; merely proving non-resident status and receipt from government does not establish clause (x) treatment.

This is a justified but narrow inclusion in a 1961 Act repository. The final tax being disputed was imposed by another Act, yet the Court itself made the 1961 head-of-income rule an essential legal step. Treating every other-tax judgment as automatically outside scope would omit that actual application. Conversely, the section 256 reference recital and the 1922 precedent alone would not have been enough. The note should not migrate the old separate head into later years: the Court itself marks its omission.

Keep the live and abandoned questions separate. The proportionate-expense arithmetic belongs to the unpressed second question and cannot be sold as Supreme Court approval of a netting formula. Nor should the printed Rs. 37,683 figure be arithmetically repaired into a new amount without an authenticated correction. The report supplies the governing legal route, not a reliable complete computation sheet. Before professional use, verify the applicable assessment-year enactments, the security's tax terms, the underlying assessment records and subsequent treatment. This editorial point is not part of the Court's judgment.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: Not expressly addressed in the reported order

INDIVIDUAL PROCEEDING OUTCOMES

1.

Case number: Civil Appeal No. 6087 of 1983

Underlying proceeding: Bombay High Court ITR 86/1970, judgment 30 January 1979

Question: Question 1: government-securities interest, clause (vi) versus clause (x)

Outcome: Appeal allowed; High Court judgment set aside; question answered for Revenue

Costs: No express costs direction recorded

2.

Case number: Civil Appeal No. 6087 of 1983

Question: Question 2: proportionate versus whole borrowing-interest allocation against Indian-concern interest

Outcome: Revenue did not press; Supreme Court expressly did not deal with the question

Costs: No separate costs direction

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, bench, appeal and High Court source

Source url: [Open cited source](#)

Pdf pages: 1; 2

Printed pages: 216-217

2.

Topic: Two reference questions and receipts

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Printed pages: 218-220

3.

Topic: Second question expressly unpressed

Source url: [Open cited source](#)

Pdf pages: 5

Printed pages: 220 D-E

4.

Topic: Exact clause (vi)/(x) text and submissions

Source url: [Open cited source](#)

Pdf pages: 6; 7

Printed pages: 221-222

5.

Topic: Court materially applies 1961 sections 14(B) and 18

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Printed pages: 222-225

6.

Topic: Final result

Source url: [Open cited source](#)

Pdf pages: 10

Printed pages: 225 D-F

AMOUNTS AND THEIR DISTINCT REPORTED ROLES

1.

Amount: Rs. 2,18,802

Role: Government-securities interest stated to have entered total income; disputed classification base

Pinpoint: physical 3/SCR 218 F

2.

Amount: Rs. 18,904; Rs. 19,333; Rs. 37,683

Role: Borrowing-interest reduction, other-expense reduction and reported net securities figure in AAC narrative; these do not reconcile to the stated gross figure, and are not silently corrected

Pinpoint: physical 4/SCR 219 B-C

3.

Amount: Rs. 12,93,822 / Rs. 12,93,828

Role: Two printed versions of interest from advances to Indian concerns; latter in reference and appellate computation; question 2 unpressed

Pinpoint: physical 3-5/SCR 218 D, 219 F, 220 A-C

4.

Amount: Rs. 25,19,560

Role: Reported total interest receipts for allocation context, not relief

Pinpoint: physical 4/SCR 219 F

5.

Amount: Rs. 10,12,252

Role: Whole borrowing-interest expense contrasted with proportionate amount in question 2

Pinpoint: physical 3/SCR 218 D

6.

Amount: Rs. 1,16,617 / Rs. 1,61,617

Role: Conflicting successive descriptions of officer's net Indian-concern interest; unpressed question 2 context

Pinpoint: physical 4-5/SCR 219 G-220 A

7.

Amount: Rs. 5,19,804; Rs. 5,51,207; Rs. 10,71,011; Rs. 2,22,817

Role: AAC proportionate interest, expenses, combined reductions and resulting net; not Supreme Court-approved arithmetic because question 2 unpressed

Pinpoint: physical 5/SCR 220 A-C

PRIMARY OPERATIVE TAX ACT

Super Profits Tax Act, 1963

SCOPE OF THE MATERIAL INCOME-TAX ACT APPLICATION

Material application of historical sections 14(B) and 18 to an essential head-of-income classification; included under the explicit cross-statute substantive scope, with a prominent historical warning.

AUTHORITIES AND BOUNDED SOURCE CHECKS

1.

Title: United Commercial Bank Ltd. v. CIT, 32 ITR 688 (1957)

Role: Earlier 1922 Act precedent quoted and applied by analogy to the present 1961 head/schedule issue

Reading limit: Only passages reproduced in target physical 8-10 read; no separate full precedent review

2.

Title: Departmental section 14, version 2000

Url: [Open cited source](#)

Role: Narrow statutory omission corroboration

Reading limit: Web lines 38-86; full section body and omission footnote, no original enactment/current-version certification

3.

Title: Departmental section 18, version 2002

Url: [Open cited source](#)

Role: Indexed omission corroboration only

Reading limit: Full web open Internal Error; STOP, no raw or alternate acquisition

SCOPE AND LIMITS OF THE LATER-TREATMENT SEARCH

Status: not verified

Scope: Bounded exact-name/citation official SCI/ITAT/selected High Court searches; no later judicial opinion verified or relied upon

Limits: No comprehensive citator, absence-of-later-treatment, continuing-authority or 2025 mapping claim. Incidental external target reproductions are not later treatment.

REPORTED SOURCE ANOMALIES AND THEIR LIMITS

1.

Pinpoint: physical 4/SCR 219 B-C

Observation: Printed net Rs. 37,683 does not follow from gross Rs. 2,18,802 less Rs. 18,904 and Rs. 19,333; preserve rather than repair.

2.

Pinpoint: physical 3-5/SCR 218-220

Observation: Indian-concern gross interest and officer net have the two conflicting values recorded in amount_roles.

3.

Pinpoint: physical 7-8/SCR 222 F-223 A

Observation: Five heads stated, but historical list contains A-F including head B; Court itself immediately records the later omission.

4.

Pinpoint: physical 7/SCR 222 B-C

Observation: One counsel-summary reference says Schedule II; operative questions, quoted provisions and disposition concern First Schedule Rule 1.

5.

Pinpoint: physical 10/SCR 225 A compared with physical 8/SCR 223 B-C

Observation: Printed section 18(b) appears in concluding reasoning; reproduced categories are (i)/(ii). Note identifies the historical section 18 treatment without silently validating this pinpoint.

6.

Pinpoint: physical 5/SCR 220 D

Observation: Narrative says Tribunal did not interfere with order of the Tribunal; context is its review of AAC. Preserved as report wording, not a second appellate tier.

7.

Pinpoint: physical 1/SCR 216 and physical 10/SCR 225

Observation: Editorial headnote's categorical inclusion formulation is not substituted for operative adjustment under clause (vi) with its printed conditions.

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Sections 14(B) and 18: substantive head-of-income classification materially applied to the disputed government-securities receipts.; Section 256(1): reference route recounted, with no separate procedural interpretation.; Super Profits Tax Act 1963 sections 2(5), 4 and First Schedule Rule 1(vi)/(x): operative chargeable-profits dispute.; Income-tax Act 1922 sections 6, 8, 10 and 24(2): United Commercial Bank precedent reasoning; no fresh 1922 assessment or set-off decided here.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

G.B. Pattanaik, J., for the Court

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

MAJORITY, DISSENT AND OPERATIVE COURT ORDER

1.

Author: G.B. Pattanaik, J., for the Court

Bench: S.C. Agrawal, J.; G.B. Pattanaik, J.

Formal position: One Supreme Court opinion and one appeal; 1922 precedent quotation is not a separate opinion

Read scope: All 10 text/images; editorial headnote 1-2, jurisdiction/appearances 2, opinion 3-10

SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256 05af64655bd29eae6d9a54e365d727bce0f2dad41aa9a96d4125260316d6f611. Original bytes preserved. All 10 physical pages, SCR 216-225: editorial headnote 1-2; jurisdiction and appearances 2; sole opinion 3-10; one appeal, two reference questions, one unpressed. No adjacent judgment.

[Open cited source rendition](#)

No assessment-year label is expressly stated in the judicial text. Calendar year 1961 is mentioned in connection with the absence of arrangements for declaring/paying dividends in India; it is not silently converted into an assessment year.

The operative dispute is under the Super Profits Tax Act 1963, but the Court itself construes and applies the then 1961 Act sections 14(B) and 18 to determine the compulsory head of this securities interest, rejects a change of character based on non-resident status, and uses that conclusion to decide which statutory adjustment applies. This is actual substantive 1961-law application essential to the final result, not merely a reference route or an older-Act analogy. Inclusion is narrow and historical.

STATUTORY SCOPE

Not verified; no automatic equivalence, transition or precedent-carryover claim

LATER TREATMENT

Source checked 2026-10-06. not_verified

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 10](#)

SHA-256: 05af64655bd29eae6d9a54e365d727bce0f2dad41aa9a96d4125260316d6f611

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