

Commissioner of Income Tax v. Kasturi and Sons Ltd.

Civil Appeal No. 5536 of 1990

[1999] 1 SCR 1207 | 1999-03-17

Whether an insurer's exercise of its contractual option to replace a destroyed aircraft produced moneys payable to the assessee and a balancing charge under the historical section 41(2).

41(2) (historical balancing-charge provision) | 147(b) (reassessment history only) | 41(1) (textual comparison) | 32 (definition cross-reference as reproduced; see source caution)

Two-judge bench | D.P. Wadhwa, J. | M. Srinivasan, J.

Assessment years: 1969-70

Insurer-elected reinstatement under the historical charging text

The holding concerns an insurer's exercised replacement option and historical section 41(2), not all non-cash insurance receipts. The source's Rs 1,58,122 amount description and definition cross-references are not silently reconciled; no charge is independently recalculated. A bounded statutory check records later section 45(1A), effective from 1 April 2000, for money or other assets from specified insured perils; it is not applied to this accident. Reassessment validity was not separately decided. Comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

The publisher of The Hindu purchased a Dakota aircraft for Rs 3,31,455 to distribute its newspaper quickly and insured it with British Aviation Insurance Ltd., Calcutta for Rs 4,00,000. The policy allowed the insurer to pay, replace or make good accidental loss; a replacement was ordinarily to be of the same make and type and in reasonably similar condition (physical pages 4–5, paragraphs 1–2).

The aircraft became a total wreck in an accident on 25 December 1967. The insurer exercised its replacement option, purchased a similar aircraft for Rs 3,50,000 and incurred another Rs 25,000 before making it available to the assessee. The AY 1969-70 assessment, originally completed on 31 January 1972, was reopened under section 147(b). The ITO applied section 41(2), and the first appellate authority and Tribunal upheld the charge. On reference, the Madras High Court held for the assessee. Revenue brought this appeal (physical pages 5–6, paragraphs 3–6).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read the historical expression moneys payable according to the provision's words, rather than substituting money's worth. Other provisions expressly extended to non-cash benefits; the selected language of section 41(2) did not justify that expansion merely because replacement had an ascertainable value. The policy underlying recoupment of earlier depreciation could not enlarge the statutory charge (physical pages 7–9 and 11–12; paragraphs 8–14; page 15, paragraph 19).

The contract gave the choice to the insurer, without the insured controlling it. Exercise of the option ended the monetary obligation and made the contract one for reinstatement, treated as relating back to its inception. Thus the accident did not first create a money debt that survived as taxable moneys payable despite replacement. The Court distinguished the authorities cited for Revenue and used the reinstatement authorities and insurance texts to support this contractual effect (physical pages 10–15, paragraphs 12–19).

The ratio depends on an actual policy option exercised by the insurer. It does not decide cash compensation later spent by the insured on a replacement, every receipt in kind, reassessment validity, or liability under another charging provision.

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

03 JUDICIAL DECISION

The Court agreed with the High Court's reasoning and conclusion that section 41(2) did not apply on these facts. Revenue's appeal was dismissed with no order as to costs. No balancing charge, remand or separate reassessment-jurisdiction determination was ordered (physical page 15, paragraphs 18–21).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeal dismissed; High Court decision sustained; no order as to costs

Final on the historical section 41(2) treatment of this insurer-elected replacement

No general tax exemption for non-cash insurance receipts; no determination under later section 45(1A) or of cash compensation reinvested by an insured.

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

05 AKHB REVIEW POINT

Obtain the actual policy and evidence of who elected the mode of settlement. Distinguish insurer-elected reinstatement from a money entitlement followed by purchase of a replacement, and identify the charging provision in force for the year. Do not turn a construction of historical section 41(2) into a universal rule that benefits in kind escape tax.

A separately bounded 2011 compilation check records section 45(1A), introduced from 1 April 2000, for insurance money or other assets received because of specified perils (physical page 345, footnote 83). Its conditions and timing must be checked independently; it neither changes the disposition of AY 1969-70 here nor proves that this reported aircraft accident falls within those specified causes.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, policy, cost, accident and procedural history

Source url: [Open cited source](#)

Pdf pages: 1; 4; 5; 6

Paragraphs: Paragraphs 1–6; reported cover metadata

Source role: reported metadata and judicial text

2.

Topic: Amount wording and printed statutory cross-reference cautions

Source url: [Open cited source](#)

Pdf pages: 2; 5; 8

Paragraphs: Paragraphs 4 and 8; editorial page 2

Source role: reported editorial and judicial comparison

3.

Topic: Historical section 41(2), textual construction and money

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: Paragraphs 8–11

Source role: judicial text

4.

Topic: Authorities, reinstatement option and relation-back reasoning

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13; 14; 15

Paragraphs: Paragraphs 12–19

Source role: judicial text

5.

Topic: Agreement with High Court and dismissal

Source url: [Open cited source](#)

Pdf pages: 15

Paragraphs: Paragraphs 20–21

Source role: judicial text

6.

Topic: Bounded later insurance-receipt provision

Source url: [Open cited source](#)

Pdf pages: 345

Paragraphs: Section 45(1A), Explanation and footnote 83

Source role: bounded historical statutory comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

M. Srinivasan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 15 PDF pages; SHA-256

10364a6157cb87863b5a425d1c0578aabe30024dfda466f7951d0bef8c1069a8. Original bytes preserved.

Complete judicial text, paragraphs 1–21, physical pages 4–15/SCR 1210–1221; paragraphs 2 and 8–17 contain insurance/statutory/authority quotations distinguished from the current case facts. Editorial pages 1–4 not treated as judicial reasoning.

[Open cited source rendition](#)

The judicial body reports the accident on 25 December 1967 and the assessment as AY 1969-70; no independent accounting-period reconciliation is supplied.; The headnote on page 2 describes Rs 1,58,122 as written-down value; paragraph 4 on page 5 places Rs 1,58,122 after the original-cost/written-down-value comparison. The note preserves the source ambiguity and does not recompute or assert a separate balancing-charge figure.; Paragraph 8 on page 8 reproduces a definition cross-reference to section 32(1A) and Explanation 2 to section 41(2A), whereas the appeal concerns section 41(2) and the earlier narrative refers to section 32(1). These printed cross-references are not silently harmonised or certified as the full AY 1969-70 statutory text.; The insurer/insured labels in the submission recorded in paragraph 7 are confused in the report; the policy and Court's paragraph 18 clearly place the option with the insurer. The submission's wording is not adopted as a contrary finding.; The amounts, contractual settings and statutory histories in cited insurance cases and Artex/Bipinchandra are not the assessee's facts. Reopening is background, not an independently decided section 147 issue.; Later section 45(1A) addresses only specified causes and defined timing; the bounded statutory check is not a comprehensive later-treatment search or current-law opinion.

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. Comprehensive subsequent judicial and statutory treatment has not been verified. Only the expressly identified bounded comparisons have been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 15](#)

SHA-256: 10364a6157cb87863b5a425d1c0578aabe30024dfda466f7951d0bef8c1069a8

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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