

Aravinda Paramila Works v. Commissioner of Income Tax

Civil Appeal No. 11366 of 1995

[1999] 2 SCR 348 | 1999-03-31

Whether commissions to overseas agents for obtaining particular export orders amounted to maintenance abroad of an agency for sales promotion under the historical section 35B(1)(b)(iv).

35B(1)(b)(iv) (historical)

Two-judge bench | S.P. Bharucha, J. | R.C. Lahoti, J.

Assessment years: 1981-82

Weighted deduction only; maintenance must be proved

The appeal concerns AY 1981-82 and historical section 35B, omitted with effect from 1 April 1989 in the checked compilation. Order-linked commissions did not prove maintenance of an overseas promotional agency. A third-party-established agency was not categorically excluded. The ruling does not deny ordinary deduction of every foreign commission or decide withholding tax. Costs are unquantified; comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

For AY 1981-82, the agarbathi manufacturer paid Rs 13,23,225 in commissions to agents outside India who procured orders. It claimed weighted deduction under section 35B(1)(b)(iv). The assessing authority disallowed it; the Commissioner (Appeals) allowed it; the Tribunal reversed that allowance; and the Karnataka High Court answered the referred question for Revenue, following Mysore Sales International (physical pages 2-3).

There was no material before the Tribunal or the other authorities showing that the assessee maintained an agency establishment abroad. The assessee's argument that an agency could consist of a single agent therefore did not answer the statutory maintenance requirement (physical page 4).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court examined the requirement that expenditure be wholly and exclusively on maintenance outside India of a branch, office or agency for promoting sales abroad. Paying commission for particular orders did not establish maintenance of the agency, and payment on particular sales was not the general promotional expenditure contemplated by this clause (physical pages 3–5).

After considering the divergent High Court approaches, the Court found merit in reading agency in the context of branch and office. Its decisive point was that the assessee must maintain the agency. An agency established by a third party was not automatically excluded, but maintenance by the assessee still had to be shown. Thus the ruling did not impose an absolute requirement that the assessee itself create or own the agency (physical pages 4–6).

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

03 JUDICIAL DECISION

The Court upheld the Karnataka High Court's decision and dismissed the assessee's single appeal with costs. The weighted deduction for these foreign commission payments remained disallowed. No costs figure was stated, and ordinary business deductibility of the payments under another provision was not determined (physical page 6).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeal dismissed with costs

Final on the historical weighted-deduction claim

No blanket rule disallowing foreign commissions as ordinary business expenses, and no requirement that only an assessee-established agency can qualify.

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

05 AKHB REVIEW POINT

Separate the ordinary commercial commission from the additional statutory weighted deduction. Obtain evidence of actual maintenance and general overseas sales promotion, rather than treating a sales-based commission invoice as enough. An independent agent is not excluded merely because a third party established the agency; the necessary maintenance by the assessee remains the critical factual question.

This is a historical section 35B decision. The Department-hosted 2011 compilation records that section's omission with effect from 1 April 1989. Do not cite the case as a present weighted-deduction entitlement, an automatic section 37 disallowance, or a ruling on withholding tax.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, jurisdiction and judicial opening

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Year, expenditure, procedural history and provision

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Record gap and divergent High Court reasoning

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Maintenance requirement, third-party agency qualification and result

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Historical section 35B omission

Source url: [Open cited source](#)

Pdf pages: 268

Paragraphs: Section 35B omission entry and footnote 71

Source role: bounded historical statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.P. Bharucha, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

INDIVIDUAL APPEAL UNITS AND DISPOSITION LIMITS

1.

Unit: CA 11366/1995

Disposition: Dismissed with costs; Karnataka High Court decision upheld

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

89155b2b70a0a562293e6c8ea2016d1a814808735c58f3348076e3964ed3825c. Original bytes preserved.

Complete unnumbered judicial text from physical page 2/SCR 349 through page 6/SCR 353; headnote and summaries of the several High Court decisions distinguished.

[Open cited source rendition](#)

The cover reads Aravinda Paramila Works, while some running headers shorten the first name to Arvinda; the note follows the cover without silently changing Paramila to a different spelling.; The amount Rs 13,23,225 is the expenditure on which weighted deduction was claimed, not a tax liability or quantified additional deduction.; The discussions of Usha Telehoist, Assam Frontier Tea, Pooppally Foods and Cadila Laboratories are attributed summaries; their facts are not this taxpayer's facts.; The Court's express allowance for an agency established by a third party must be preserved; the operative requirement is maintenance by the assessee.; Section 35B's omission is a bounded historical statutory check; no comprehensive later-treatment, section 37 or withholding analysis is certified.

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 registered bounded primary-source comparisons and historical statutory checks have been performed. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 6](#)

SHA-256: 89155b2b70a0a562293e6c8ea2016d1a814808735c58f3348076e3964ed3825c

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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