

Commissioner of Income Tax, Kerala v. M/s. Travancore Sugar and Chemicals Ltd.

Civil Appeal No. 2558 of 2005

[2015] 6 SCR 782 | 2015-05-07

Whether the particular Kerala vend fee fell within section 43B(a) for AY 1990-91 despite being described as a privilege payment.

43B(a) | 256(1)

Two-judge bench | A.K. Sikri, J. | Rohinton Fali Nariman, J.

Assessment years: 1990-91

Vend-fee classification; do not omit the timing proviso

The particular compulsory vend fee falls within amended section 43B(a) for AY 1990-91. The judgment preserves another-year deduction on actual payment in accordance with law. Its extract omits the first proviso and does not decide a return-due-date claim; the checked Allied Motors comparison prevents treating year-end payment as a universal cutoff. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The manufacturer and seller of foreign liquor and sugar returned income of Rs.15,84,398 for AY 1990-91 and itself showed an unpaid vend fee of Rs.22,87,512 as disallowable under section 43B. The Assessing Officer confirmed that position; the Commissioner (Appeals), Tribunal and High Court granted relief. Only the second referred question, concerning the outstanding vend fee, was before the Supreme Court (paragraphs 1–2).

Under the Kerala order dated 28 April 1988, a levy on three sugar mills was collected into a fund for repair or replacement of their old machinery. The assessee described the arrangement as consensual. Revenue relied on the expanded wording of section 43B(a), effective from 1 April 1989, and the compulsory character of the collection (paragraphs 5–9).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court held that the post-amendment language covering cess or fee by whatever name called applied to AY 1990-91. The High Court had overlooked that change. Its reliance on Sri Balaji, which concerned AY 1984-85 under the earlier wording, did not govern this year (paragraphs 4–8).

The actual Kerala order also supported a fee in the classic sense: the State compulsorily collected money from the mills to confer the particular machinery-renewal benefit on them. Even describing it as a privilege did not remove the payment from the broadened statutory category. The substance and legal character of this exaction, rather than its label, controlled (paragraphs 9–10).

The Court reversed the answer favourable to the assessee. It preserved the ability to claim the deduction in another assessment year in accordance with law if actual payment had then occurred; it did not find a later payment date or grant a quantified later-year deduction (paragraph 11).

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

03 JUDICIAL DECISION

Revenue's appeal was allowed, the High Court judgment set aside on the vend-fee question, and the disallowance position restored. A deduction for another year remained available in accordance with law if payment was actually made then. No remand or separate costs direction was made (paragraphs 10–11).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the vend-fee issue for AY 1990-91

Revenue appeal allowed; High Court answer to question 2 reversed; later actual-payment claim preserved in accordance with law

Final classification/disallowance ruling for the stated year; no quantified later-year relief

Concerns this compulsory fee and the applicable amended wording. The judgment does not decide every government payment or resolve a separate claim under the section 43B first proviso; its abbreviated statutory extract omits that proviso.

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

05 AKHB REVIEW POINT

Read the levy instrument, not just the description privilege, fee or contribution. Identify whether the State compulsorily exacts the payment and the benefit or statutory arrangement for which it is collected. Then apply the wording for the actual assessment year.

Keep classification separate from the full timing rule. Travancore's excerpt and reasoning do not examine a return-due-date proviso claim. In the separately checked Allied Motors passages, the Court reads the first proviso and Explanation 2 together and recognises qualifying payments by the section 139(1) due date. This editorial comparison prevents turning the year-end language here into a universal deadline; it does not change the actual dismissal of this assessee's claim or invent a payment it never proved. No current-law certification or complete later-treatment search is supplied.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and AY

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover; 1

Source role: reported metadata and judicial text

2.

Topic: Question confined to unpaid vend fee

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: 1–2

Source role: judicial text

3.

Topic: Amended wording and historical distinction

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8

Paragraphs: 4–8

Source role: judicial text

4.

Topic: Compulsory levy and result

Source url: [Open cited source](#)

Pdf pages: 8; 9

Paragraphs: 9–11

Source role: judicial text

5.

Topic: First proviso and integrated construction**Source url:** [Open cited source](#)**Pdf pages:** 5; 6; 10; 11; 12; 13**Paragraphs:** Unnumbered judicial text, SCR 784–785 and 789–792**Source role:** bounded comparison judicial text**ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS****43b(a):** Classification and actual-payment treatment of the identified vend fee after the 1988 amendment**256(1):** Referred question 2 alone was in this appeal**JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS**

R.F. Nariman, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

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

Identified source rendition: 9 PDF pages; SHA-256

2f8f9f8f028fcd4a7e4b52a3e15a5f59e0542e23db5d88a81fc662fd043f984f. Original bytes preserved.

Judicial paragraphs 1–11 on physical pages 3–9 (SCR 784–790). Pages 1–2 and the upper part of page 3 are report/editorial material. No adjacent judgment.

[Open cited source rendition](#)

The report's statutory quotation stops before the first proviso. No finding about payment by the return due date is supplied; a general rule demanding payment by the prior year-end would overstate the decided classification issue.; The source prints Rs.0.50 paise per bulk litre, an inconsistent currency-unit expression. The note omits that numerical levy rate rather than inventing a conversion.; The jurisdiction line describes the Kerala High Court as at Bangalore. This is a printed source anomaly and is not repeated as verified venue information.; Paragraph 8 calls the quoted material Notes on clauses preceding the 1989 amendment, while paragraph 4 specifies Finance Act 1988 effective 1 April 1989. No extra enactment-history conclusion is inferred.; The source's 43B quotation contains several clauses not individually adjudicated here. They are not indexed as independent employee-contribution, interest or leave-encashment holdings.

STATUTORY SCOPE

Current statutory equivalence and 2025 Act applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive later judicial/statutory treatment remains unverified. Any actually read comparison is expressly bounded and separately sourced.

IDENTIFIED SOURCE LINKS[reported judgment - PDF pages: 9](#)

SHA-256: 2f8f9f8f028fcd4a7e4b52a3e15a5f59e0542e23db5d88a81fc662fd043f984f

[bounded comparison judgment - PDF pages: 13](#)

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