

## Income Tax Officer, Mumbai v. Venkatesh Premises Cooperative Society Ltd.

Civil Appeal Nos.2706–2747 and 2765–2772 of 2018 / Civil Appeal Nos.3271,3272 and 3827 of 2012 / Civil Appeal No. 1180 of 2015 / Civil Appeal Nos.2997 and 8741 of 2017

[2018] 3 SCR 214 | 2018-03-12

**Whether the identified member charges were mutual receipts rather than taxable commercial income, and whether the historical housing-society notification applied to a non-residential premises society.**

2(24)

Two-judge bench | R.F. Nariman, J. | Navin Sinha, J.

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

### Mutual-use facts and historical notification only

The member-charge result depends on the accepted membership, appropriation, retained-title and common-benefit facts. It does not exempt every co-operative receipt or validate every levy. The 2001 notification and statutory references are historical; current limits and subsequent law are unverified.

### 01 FACTS OF THE CASE

The batch concerned co-operative societies collecting transfer charges, non-occupancy charges and common-amenity contributions for their members. Revenue treated the receipts, including charges exceeding the stated notification limits, as commercial income. The procedural example also involved a transfer payment received before the incoming person formally became a member. The Tribunal and High Court differed on aspects of taxability. CA 1180/2015 was the society's appeal against the adverse excess-charge conclusion; the other appeals were Revenue's (paragraphs 2–3).

The accepted use of the money was maintenance, repairs, infrastructure and shared amenities. Transfer amounts paid for convenience by an incoming person were appropriated only after admission; otherwise they were returned. Additional construction involved admission before allotment of occupancy rights, with ownership remaining in the society. These facts, not an unrestricted exemption for all co-operative receipts, underlay the decision (paragraphs 19–20).

Source: [reported judgment](#) / [paragraphs 2–3 and 19–20](#) / [PDF pages 6, 12, 13](#) / [judicial text](#)

## 02 DISCUSSION BY THE HON'BLE COURT

Mutuality required common identity between the contributing and participating classes. A surplus used for their common purposes remained an accretion to the common fund rather than profit from trading with an outside source. The Court applied the principles discussed in Bankipur, Bangalore Club and the common-effluent-treatment decision, while distinguishing arrangements in which members participated in surplus without the necessary contributor identity (paragraphs 14–18 and 25).

On the facts, a transfer charge did not become commercial merely because the incoming person paid part before formal admission, where appropriation followed admission and non-admission required repayment. Non-occupancy and common-amenity charges likewise supported the collective facilities. Different contribution levels for existing and new members did not alone defeat class identity. For additional construction, the society admitted members, retained ownership and allotted occupancy rights by lots; the Court rejected treating part of those contributions as separate commercial sale income (paragraphs 19–20).

The challenge to charges under co-operative law was a distinct cause of action from the income-tax question. The Court read the 9 August 2001 notification as applying to co-operative housing societies, not a premises society comprising non-residential premises. It did not confer a general permission to disregard society law, nor did it decide taxability of unrelated commercial receipts or bank interest (paragraphs 21–25).

Source: [reported judgment / paragraphs 14–25 / PDF pages 9, 10, 11, 12, 13, 14, 15 / judicial text](#)

## 03 JUDICIAL DECISION

All Revenue appeals were dismissed. The society's Civil Appeal No. 1180 of 2015 was allowed. The common-member receipts fell within mutuality on the facts and the notification did not apply to the non-residential premises society as asserted. No fresh assessment remand or quantified refund was ordered (paragraph 26).

Source: [reported judgment / paragraphs 26 / PDF pages 15 / judicial text](#)

## 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee societies

Revenue appeals dismissed; CA 1180/2015 allowed; no remand directed

Final mutuality determination for the identified receipts and notification-applicability point

Actual contributor/participant identity, timing of appropriation, retained ownership and mutual use matter. Not a blanket exemption for co-operative business or bank interest, and not an authorization for unlawful member levies. No assessment years or tax quantum are supplied.

Source: [reported judgment / paragraphs 26 / PDF pages 15 / judicial text](#)

## 05 AKHB REVIEW POINT

Trace membership, appropriation and the common fund, not merely the payment label. Preserve the bye-laws, resolutions, admission and refund records, contribution/utilisation accounts, and the rights granted in any additional construction. New members' higher contributions did not alter mutuality on these arrangements, but a commercial sale to an outsider or a different deployment of funds requires separate analysis.

Keep compliance with co-operative-law limits distinct from the tax character of receipts. This judgment's historical notification analysis is not advice on present Maharashtra charge limits. Similarly, its reference to section 2(24)(vii) should not be used as a universal statutory rule for every co-operative business: the separately checked historical text concerns insurance profits, while clause(viia) separately addresses banking business. No complete statutory currentness audit is supplied.

Source: [reported judgment / paragraphs 19–26; editorial application / PDF pages 12, 13, 14, 15 / judicial text; official statutory extract / paragraphs Historical section 2\(24\)\(vii\) and\(viia\) / PDF pages 7 / statutory text](#)

## ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(24)(vii): Court's general reference, with statutory-scope caution below; 133(6): information gathering

## OTHER GOVERNING STATUTES

Maharashtra Co-operative Societies Act, 1960, section 79A; Notification dated 9 August 2001: historical society-charge direction considered

## JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Navin Sinha, 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

20f721f0d939aad364442cec8552f607a87885015e6695bef6411ae87bca3a09. Original bytes preserved.

Judicial paragraphs 1–26 on physical pages 6–15 (SCR 219–228); editorial headnote/case references on pages 1–5, jurisdiction and full appeal group on page 5. Submissions in paragraphs 4–12 and quoted precedents distinguished. No adjacent judgment.

[Open cited source rendition](#)

Paragraph 19 refers to different years but the judgment does not name them; filing years are not substituted for assessment years.

Exact contiguous ranges compress the separately listed 2018 appeals without filling the omitted 2748–2764 gap. The reported list has 56 appeals; CA 1180/2015 is the assessee appeal.

The common-law mutuality discussion uses a broad reference to section 2(24)(vii). A bounded official 2015 text at physical page 7 states an insurance-business provision and a separate banking clause(vii a); no broader statutory wording is inferred from the judgment's shorthand.; Paragraphs 4–12 are party submissions. Their levy-validity and automatic-membership propositions are not adopted wholesale; the Court's application in 19–25 controls.; Paragraph 3 recounts mixed lower-court conclusions, while paragraph 24 describes agreement with a High Court view on notification scope. The decisive case-specific relief is the explicit paragraph 26 disposal, not a silently reconciled procedural history.; Amounts and rates in Revenue's submissions and the 2001 notification are historical litigation material, not current charge ceilings.; The quoted Bankipur and Bangalore passages use numbering from their cited renditions. This note's primary pins are to Venkatesh's own paragraphs.

## **STATUTORY SCOPE**

Historical source review only; applicable statutory versions and Income-tax Act, 2025 mapping require separate verification.

## **LATER TREATMENT**

Source checked 2026-10-04. No comprehensive subsequent-treatment or current-law audit. Authorities are described as quoted/applied in this judgment unless an additional bounded check is expressly identified.

## **IDENTIFIED SOURCE LINKS**

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

SHA-256: 20f721f0d939aad364442cec8552f607a87885015e6695bef6411ae87bca3a09

[official statutory extract - PDF pages: 12](#)

SHA-256: 41e71b6e3c6d3a0a8e2d4570f84cd706bdeb7a613617ff66751e0c1f9cafe403

## **AI DISCLOSURE**

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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