

Principal Commissioner of Income Tax-1, Kolkata v. Apeejay Surendra Management Services Private Limited

ITAT/242/2025 (IA No: GA/1/2025)

ITAT/242/2025 (IA No: GA/1/2025) (Calcutta HC, decided 2026-04-21) | 2026-04-21

Deemed dividend under Section 2(22)(e) cannot be assessed in the hands of a concern that is neither a registered nor a beneficial shareholder of the lending company, following CIT v. Madhur Housing & Development Co. (2018) 93 taxmann.com 502 (SC).

Income-tax Act, 1961: sections 2(22)(e), 260A

High Court at Calcutta | 2-judge bench (Division Bench) | Justice Rajarshi Bharadwaj | Justice Uday Kumar

Assessment years: 2014-15

Applies to Section 2(22)(e) recipient taxability

Confirms that even where common shareholders hold substantial interest in both companies, deemed dividend under Section 2(22)(e) is taxable only in the hands of the shareholder and not in the hands of the non-shareholder recipient company.

01 FACTS OF THE CASE

For AY 2014-15, the Assessing Officer made an addition under Section 2(22)(e) in the hands of the respondent-assessee on account of loans/advances received from a group company in which common shareholders held substantial voting power, even though the assessee company itself was not a shareholder of the lending company. The CIT(A) and the ITAT deleted the addition.

Source: [PDF pp. 1-2, paras 1-3](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench observed that the legal issue is squarely settled against the Revenue by the judgment of the Delhi High Court in CIT v. Ankitech Pvt. Ltd. (2012) 340 ITR 14 (Del), as affirmed by the Supreme Court in CIT v. Madhur Housing & Development Co. [2018] 93 taxmann.com 502 (SC). Because the assessee was neither a registered nor a beneficial shareholder of the lending company, the fiction under Section 2(22)(e) could not be extended to tax the loan in the hands of a non-shareholder concern.

Source: [PDF pp. 2-3, paras 4-6](#)

03 JUDICIAL DECISION

Holding that the issue stood concluded by binding Supreme Court precedent and raised no substantial question of law, the High Court dismissed the Revenue's appeal.

Source: [PDF p. 3, para 7](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee - Revenue appeal dismissed; deletion of Section 2(22)(e) addition in non-shareholder's hands affirmed.

Source: [PDF p. 3, para 7](#)

05 AKHB REVIEW POINT

A company receiving an inter-corporate loan from a sister concern in which it holds no shares cannot be taxed under Section 2(22)(e) merely because both companies share common shareholders.

Source: [AKHB analysis based on PDF pp. 2-3](#)

SOURCE & VERIFICATION

[High Court at Calcutta official judgment PDF - AKHB Repository \(20260421_WBCHCO0047862025.pdf\)](#)

3-page official High Court at Calcutta judgment PDF (20260421_WBCHCO0047862025.pdf, 132,432 bytes).

Supplied source-reviewed note retained; original bytes and identity validation checked in this release. Substantive re-review is not claimed for this record.

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STATUTORY SCOPE

Applies Section 2(22)(e) of the Income-tax Act, 1961 for AY 2014-15. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-18. Full 3-page primary judgment PDF text read and verified page-by-page. Follows CIT v. Ankitech Pvt. Ltd. (2012) 340 ITR 14 (Del) as affirmed by the Supreme Court in CIT v. Madhur Housing & Development Co. (2018) 93 taxmann.com 502 (SC).

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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