Equity Intelligence AIF Trust v. Central Board of Direct Taxes and another

W.P.(C) 9972/2024

2025:DHC:6170-DB; W.P.(C) 9972/2024 | 2025-07-29

AIF beneficiary determinability governed section 164: advance ruling quashed and Circular 13/2014 read down.

Income-tax Act,1961: sections 160, 161, 164, 245W

Delhi High Court | 2-judge bench (Division Bench) | Chief Justice Devender Kumar Upadhyay | Justice Tushar Rao Gedela

Assessment years: 2018-19 (assessment background; writ challenges advance ruling and circular)

01 FACTS OF THE CASE

Equity Intelligence AIF Trust operated the open-ended Category III EQ India Fund. Investor identities and income shares were recorded through later contribution agreements. It challenged the BAR order of 27 June 2024 and CBDT Circular 13/2014, which treated absence of investor names in the original deed as making the trust indeterminate.

Source: PDF pp.1–4

02 DISCUSSION BY THE HON'BLE COURT

The Court examined section 164, the SEBI registration sequence and the Karnataka and Madras fund decisions. It accepted that requiring investor names in the original deed would create an impossible compliance situation and agreed that determinability of shares, including after formation, was the relevant test.

Source: PDF pp.20–34

03 JUDICIAL DECISION

The BAR order was unsustainable and was set aside. Circular 13/2014 was directed to be read down consistently with the Court's interpretation. The Court exercised writ jurisdiction despite section 245W's appeal remedy, citing overlooked precedent and the wider public-interest issue.

Source: PDF pp.34–36

04 OUTCOME / IN WHOSE FAVOUR

The writ petition was allowed; the BAR order was quashed and the circular read down. Pending applications were disposed of. Examination of other tax provisions was expressly unnecessary to the restricted dispute.

Source: PDF pp.34–36

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

Demonstrate determinability, not merely a list of names: The adopted reasoning focuses on whether beneficiaries' shares can be determined from the investment arrangement. Contribution agreements, unit holdings and allocation mechanics matter. Absent names are not conclusive; unsupported discretionary allocations are not validated. (PDF pp.30–34)

Read the regulatory sequence carefully: The quoted Regulation 6(5) distinguishes commitments following in-principle approval from receipt of money after registration. The judgment does not permit collecting funds contrary to those regulatory steps. (PDF pp.21–24, 28–30)

Relief is not a universal AIF tax exemption: The circular was read down, not struck out in its entirety. Paragraph 43 confines examination to section 164 and the circulars, leaving other provisions outside the decision. It does not confer universal Category III pass-through status or resolve section 161(1A) business-income treatment. (PDF pp.34–36)

Separate the grounds accepted from those questioned: The Court questioned reliance on the 1980 circular passage because it did not appear in the enacted text, yet granted relief on its later analysis and adopted precedent. It also expressly records that the TVS Shriram SLP was dismissed for low tax effect. Neither amounts to statutory incorporation or Supreme Court approval on merits. (PDF pp.19, 27, 34–36)

Source: PDF pp.30–34

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 36-page original reviewed; source bytes verified.

Full original and all five panels re-reviewed on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Current law and subsequent treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

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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