Commissioner of Income Tax & Anr. v. Salarpuria Properties Pvt. Ltd.

R.P. No. 290/2011 in I.T.A. No. 401/2009, with I.T.A. Nos. 398 and 400/2009

R.P. No. 290/2011 in I.T.A. No. 401/2009, with I.T.A. Nos. 398 and 400/2009 (High Court of Karnataka, 2015-09-18) | 2015-09-18

Deemed-dividend review and connected appeals rejected on non-shareholder principle.

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

High Court of Karnataka | Division Bench | N. Kumar | Ravi Malimath

Assessment years: 2003-04, 2005-06

01 FACTS OF THE CASE

Revenue sought review of the 28 February 2011 order in I. T. A.401/2009 and pursued I. T. A.398 and 400/2009 concerning Salarpuria Properties. The connected appeal recitals identify AY 2003-04 and AY 2005-06 respectively; the review petition's assessment year is not separately stated.

Source: PDF pp.1–4

02 DISCUSSION BY THE HON'BLE COURT

Revenue argued that the earlier decision had not considered the second limb of section 2(22)(e), read with Explanation III concerning substantial interest. The Court applied Chief Commissioner of Income Tax v. Sarva Equity (P) Ltd., (2014) 225 Taxman 172 (Karnataka): the statutory fiction extended dividend, not the meaning of shareholder, and did not permit the recipient non-shareholder concern to be treated as a shareholder merely through common substantial shareholders.

Source: PDF pp.4–7

03 JUDICIAL DECISION

The review petition was rejected for absence of grounds for review. Both connected appeals were dismissed, with the substantial question answered against Revenue and in favour of the assessee.

Source: PDF pp.7–8

04 OUTCOME / IN WHOSE FAVOUR

Revenue obtained neither review nor reversal in the two appeals. The detailed discussion of M/s. Ittina and common family shareholders appears within the quotation from Sarva Equity; it is not a separately recorded factual finding about Salarpuria's transactions.

Source: PDF pp.5–8

05 EXPERT COMMENTS

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

Distinguish the proposed statutory limb from the recipient's status: Revenue's review argument was specific: substantial interest in a recipient concern under the second limb. The Court nevertheless treated shareholder status as essential under the precedent it applied. The result cannot be reduced to a finding that there was no loan or no substantial interest; neither is the stated basis of dismissal. (PDF pp.4–7)

Do not transplant precedent facts into this taxpayer's case: The quoted Ittina example explains the rule adopted by the Bench. It does not establish Salarpuria's lender identity, family relationships or shareholding percentages. A transaction analysis would require those independent records before applying the historic reasoning to another recipient. (PDF pp.5–7)

Preserve the separate procedural outcomes: The review failed as a review, while the two appeals failed on the same legal question. This common judgment records both results but supplies no finding on later statutory amendments or subsequent judicial treatment. It is a source-specific account of the law applied by this Bench in September 2015. (PDF pp.7–8)

Source: PDF pp.4–7

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 8-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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