

The Commissioner of Income-tax, Bombay City, Bombay v. Bipinchandra Maganlal and Co. Ltd., Bombay

Civil Appeal No. 761 of 1957 — Single Supreme Court civil appeal disposed of by the target judgment.

[1961] 2 SCR 493 | 1960-11-17

The balancing-charge fiction created taxable income but did not turn a return of machinery capital into commercial profit for deciding whether a larger dividend was unreasonable under section 23A.

1922 Act: 2(6C) | 1922 Act: 10(2)(vii), second proviso | 1922 Act: 23A | 1922 Act: 66(1)

3 Judges | S. K. Das | M. Hidayatullah | J. C. Shah

01 FACTS OF THE CASE

The closely held company bought machinery for Rs. 89,000 and sold it for the same price. Its written-down value was Rs. 73,392, so the officer included the Rs. 15,608 difference in assessable income under the depreciation-recapture fiction. The company had declared a Rs. 12,000 dividend. The officer then made a section 23A order deeming further income distributed among shareholders. The Tribunal upheld that order, but the High Court held that the Rs. 15,608 should not count as profit for determining the reasonableness of a larger dividend. Revenue appealed.

Source: [SCR 494-495; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court separated two stages in section 23A. Failure to distribute the specified proportion of assessable income satisfied the initial condition, but the officer still had to consider whether losses or small commercial profits made a larger distribution unreasonable. Assessable income could include artificial receipts and differ markedly from funds earned as commercial profit. The second proviso to section 10(2)(vii) recaptured depreciation when sale proceeds exceeded written-down value without exceeding original cost. It made part of a capital return taxable through a fiction, without changing that receipt's commercial character. Extending the fiction to dividend capacity could compel distribution from capital or reserves. The statutory phrase was smallness of profit, not smallness of assessable income, and had to be applied according to commercial principles.

Source: [SCR 496-500; judicial reasoning; opinion boundaries preserved](#)

03 JUDICIAL DECISION

The Rs. 15,608 was properly treated as taxable income for the separate assessment computation, but could not be counted as commercial profit in the section 23A reasonableness inquiry. The Court upheld the High Court's negative answer to the referred question. It did not hold that the machinery-sale receipt escaped income-tax or that meeting the percentage threshold alone resolved whether a deemed-distribution order was justified.

Source: [SCR 498-500; holding and expressed limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal dismissed. The company succeeded on exclusion of the balancing-charge amount from the commercial-profit inquiry. Appeal dismissed with costs.

Source: [SCR 500-500; operative disposition and costs](#)

05 AKHB REVIEW POINT

Identify the precise purpose for which a statutory fiction operates. A deemed taxable receipt should not automatically be treated as cash profit available for corporate distribution. This reasoning does not authorize disregarding an express definition in another tax provision. The judgment applies the historical section 23A scheme and an individual-asset recapture rule; later book-profit, block-depreciation and dividend regimes need their own text and accounting analysis.

Source: [SCR 498-499; editorial analysis based on the indicated reasoning](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: I.T.R. 48/X of 1954

Relationship: Bombay High Court originating reference, as printed; judgment 24 February 1955

SOURCE & VERIFICATION

Original reported Supreme Court judgment

8-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All 8 pages/SCR493-500; Setabgunj conclusion above p 1 dividing rule excluded. Target caption/coram below rule; Shah J opinion p 2-8 through dismissal/costs. Historical 23A reasonableness stage distinguished from initial 60 percent condition.

Open cited source rendition

The two Setabgunj appeal dispositions at the top of p 1 belong to the preceding case.

The report's stated arithmetic totals in the assessment narrative are not silently recalculated; the material Rs. 15,608 difference is consistent with stated cost and written-down value.

The printed originating reference 48/X of 1954 is retained.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 2(6C), 10(2)(vii), second proviso, 23A, 66(1)

No provision-level 1961 comparison is adopted for this particular issue in the bounded review. The historical holding is not treated as deciding a later charge or procedure.

No corresponding 2025 provision was verified for any replacement for the former undistributed-profit scheme or depreciation recapture; no renumbering or present-law equivalence is asserted.

The operative historical law is identified separately. Only the stated later statutory versions and passages were checked; comprehensive subsequent history and applicability to a particular later tax year remain unverified.

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted except where expressly stated.

No later primary application of this commercial-profit holding has yet been checked. It is not treated as a ruling on a later book-profit definition or dividend-tax regime.

Earlier authorities discussed within the target judgment are not treated as later-use evidence.

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