

Provat Kumar Mitter v. Commissioner of Income Tax, West Bengal

Civil Appeal No. 366 of 1959 — Supreme Court certificate appeal under section 66A(2) of the 1922 Act / Income Tax Reference No. 9 of 1955 — Calcutta High Court originating reference; order 18 September 1958

[1961] 3 SCR 37 | 1960-12-08

Assigning future dividends without transferring the shares was application of income after accrual; the dividends remained taxable to the shareholder, without invoking section 16(1)(c) or its third proviso.

1922 Act: 16(1)(c), third proviso | 1922 Act: 16(3) | 1922 Act: 66 | 1922 Act: 66A(2)

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

01 FACTS OF THE CASE

For assessment year 1953-54, a registered holder of 500 Calcutta Agency shares sought to exclude Rs. 12,000 in dividends. His 19 January 1953 instrument assigned future dividends and related sums to his wife for life, while the shares remained his. The Tribunal rejected the claim on the deed's alleged lack of registration. The High Court answered registration and statutory-repugnancy questions for the assessee, but held that payment to his wife merely applied income already belonging to him.

Source: [SCR 38-40: deed, dividends and three reference questions.](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court confined the appeal to the third, application-of-income question. It expressed no opinion on the two answers not appealed by the Revenue. The objection that the third question did not arise from the Tribunal's order failed: it had been raised, implicitly decided, and referred, without objection in the High Court. On construction, the instrument was a covenant to make over future dividends, not a present transfer of the existing shares or the shareholder's participation right. The company could pay its registered shareholder or act on his directions. Income consequently accrued first to him. A binding obligation to pay it onward did not turn subsequent application into diversion before accrual.

Source: [SCR 41-44: appeal limits, reference objection and accrual/application distinction.](#)

03 JUDICIAL DECISION

The High Court's answer was upheld. Section 16(1)(c) and its third proviso were not attracted to this arrangement. The Court distinguished Bejoy Singh Dudhuria and left unnecessary questions about the covenant's precise enforceability over future property undecided. Its conclusion rested on retained ownership of the income-producing source and the instrument actually executed.

Source: [SCR 43-44: retained source; statutory proviso inapplicable.](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee appeal dismissed. The dividend remained assessable as the shareholder's income despite payment to his wife. Dismissed with costs.

Source: [SCR 44 final paragraph and dismissal.](#)

05 AKHB REVIEW POINT

Separate transfer of an income source from a promise about its future yield. The result is instrument-specific, and the Court did not invalidate every family settlement or decide the unappealed registration issue. Even an effective transfer of a source may encounter special statutory inclusion rules, a qualification expressly preserved in the judgment. Later provisions and actual ownership must therefore be examined separately.

Source: [SCR 43-44: exact instrument and special statutory qualification.](#)

SOURCE & VERIFICATIONOriginal 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. Every physical text/image page 1-8/SCR 37-44; target caption top of first page, S K Das opinion page 2 upper third through page 8 dismissal/costs and footnote. No neighboring-case material. Registration and repugnancy answers explicitly not reviewed by Supreme Court; only application-of-income third question.

Open cited source rendition**STATUTORY SCOPE**

Indian Income-tax Act, 1922; 16(1)(c), third proviso, 16(3), 66, 66A(2)

Displayed 2025 section 60 expressly includes income transferred without transfer of its underlying assets in the transferor's total income, whether the income transfer is revocable or not. This separate later enactment is compared with the source-retention reasoning; the judgment itself did not decide section 60.

2025 section 96 separately addresses income transfer without asset transfer, again irrespective of revocability. It does not dispense with examining the actual instrument, income source and any other applicable provision.

The judgment applies the historical 1922 Act. The 2025 Act generally commenced 1 April 2026. Selected section 536(1), (2)(a)-(e), (3)-(4) preserve earlier operation and specified proceedings. Only identified versions and passages were checked; applicability to a current assessment requires its tax year, savings and full governing law.

LATER TREATMENT

Source checked 2026-10-08. Tulsidas Kilachand (3 January 1961), SCR 355-356, expressly distinguishes Provat: its own disposition placed the shares in trust, while Provat retained the shares and covenanted about dividends. The separate trust fell within 1922 section 16(3)(b); this is a distinction based on the instrument, not an overruling.

Comprehensive subsequent history and present-law applicability remain unverified.

Only identified Tulsidas judgment, all 8 physical text/images, with operative distinction at SCR 355-356.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: section 60](#)

Official Income-tax Act, 1961 page displayed year 2025 Web 67-68, complete section and header/version. Exact selected text personally read; no raw HTML/PDF, PDF images, whole-Act review or comprehensive present-law certification. Section 99(2) formula not relied on.

[Income-tax Act, 2025: section 96](#)

As amended by Finance Act, 2026 Web 6785-6790, complete 96. Exact selected text personally read; no raw HTML/PDF, PDF images, whole-Act review or comprehensive present-law certification. Section 99(2) formula not relied on.

[Tulsidas Kilachand v. The Commissioner of Income-tax, Bombay City I — \[1961\] 3 SCR 351](#)

All eight physical pages/SCR 351-358, caption and headnote through Hidayatullah J opinion and final appeals dismissal/costs. No neighboring case content. Deed date printed 5 March in opening headnote/reference question but 15 March in held headnote; retain conflict without choosing a corrected deed date. Separate judgment personally read in all 8 text/image pages. Frozen acquisition URL, not newly authenticated endpoint. Text pages read: 1-8. Image pages read: 1-8.

[Income-tax Act, 2025: commencement and selected savings](#)

As amended by Finance Act, 2026 Title/version and section1(1)-(3), web0-13; section536(1),(2)(a)-(e), web24385-24408; section536(3)-(4), web24597-24601. Selected savings only, not full section536. Only stated official web-extracted text personally read. No original HTML/PDF integrity, PDF images, entire Act or comprehensive current-law claim.

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