

Commissioner of Income-tax, Bombay City II v. Shakuntala and Two Others etc.

Civil Appeals Nos. 125, 231 and 447 of 1960

[1962] 2 SCR 871 | 1961-07-18

Historical deemed dividend: section 23A reached registered shareholders, not an HUF that was only beneficial owner.

Indian Income-tax Act, 1922: section 23A as it stood before the Finance Act, 1955; sections 16(2), 18(5), 23 and 34

3-judge bench; unanimous judgment delivered by S. K. Das, J. | S. K. Das, J. | M. Hidayatullah, J. | J. C. Shah, J.

Assessment years: 1949-50

Historical statutory setting

Pre-1955 section 23A of the 1922 Act; neither current deemed-dividend law nor taxation of actually distributed dividends was decided.

Source and scope caution

The catalogue lists only Civil Appeal No.125 of 1960; the judgment covers Civil Appeals Nos.125, 231 and 447 of 1960.

Additional scope caution

The judgment states facts from the leading reference, not separate factual findings for each of the three appeals.

No current-law clearance

Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

01 FACTS OF THE CASE

The leading reference concerned an HUF beneficially owning 1,842 company shares registered in individual family members' names. For assessment year 1949-50 the officer invoked section 23A and included Rs.54,307 of grossed-up notional dividend in the HUF's income. The Tribunal deleted the addition and the High Court agreed; three similar Revenue appeals were heard together (SCR pp.872-875; PDF pp.2-5).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 23A created notional dividend requiring a subsequent shareholder assessment. Its express recipient was the registered shareholder, consistently with section 18(5), not the beneficial owner. Anti-avoidance purpose and the principle of carrying a legal fiction to its conclusion could not extend the fiction beyond the section's words or cure a supposed statutory gap (SCR pp.875-879; PDF pp.5-9).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

All three Revenue appeals were dismissed with costs and one hearing fee. The High Court's answer for the assesseees was upheld; its second referred question consequently did not arise for consideration (SCR pp.879-880; PDF pp.9-10).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assesseees: the HUF could not be assessed on this section 23A notional dividend merely as beneficial owner; assessment under the provision belonged to the registered shareholders (SCR pp.878-880; PDF pp.8-10).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: identify the statutory recipient and precise reach of the deemed-income rule before looking through registered ownership. Distinguish this historic notional distribution from actual dividend receipt and later statutory definitions; beneficial ownership alone did not answer the specific section 23A question.

Source: [Primary judgment: review point](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full 10-page SCR asset read in page-preserving text and visually inspected; the next Seth Bikhraj Jaipuria report beginning on physical p.10 excluded.

[Open cited source rendition](#)

Catalogue source 1962_2_871_880: SHA-256

ccddcdca1956469baada2cd75a29cbe80d11e9004081b1c03b89f4e8a69322fc, 10 pages, read and visually inspected in full.

The published original preserves the exact catalogue bytes and verified hash.

The source verifies identity, bench, provisions, opinion structure and operative order.

No exact source-hash, asset-ID, SCR-citation, docket or same-judgment publication match was found.

STATUTORY SCOPE

Pre-1955 section 23A of the 1922 Act; neither current deemed-dividend law nor taxation of actually distributed dividends was decided.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.