

Kishinchand Chellaram v. Commissioner of Income-tax, Central Bombay

Civil Appeal Nos. 462 to 465 of 1960

[1963] 2 SCR 268 | 1962-04-19

A later company resolution could not retrospectively convert amounts already declared, credited and received as dividend into shareholder loans or undo the income-tax liability that had attached under section 16(2).

Indian Income-tax Act, 1922: section 16(2) | Indian Income-tax Act, 1922: section 66 | Indian Companies Act, 1913: section 17(2) and article 97 of Table A

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

Assessment years: 1945-46

Distinct Kishinchand judgment

This 1962 dividend-character case is not the already-published 1980 Kishinchand Chellaram bank-evidence decision.

Historical statutory setting

The decision applies section 16(2) of the repealed 1922 Act and historical Companies Act provisions.

Company-law issue limited

The Court did not decide the directors' liability or whether shareholders could be compelled by the company to refund an unlawful capital distribution. It decided the tax character and timing of amounts declared and credited as dividend.

Reference-jurisdiction limit

The contention that the payment was never dividend did not fairly arise from the Tribunal's order; the Court nevertheless also stated that a dividend payment does not lose that character merely because it was paid out of capital.

No current-law clearance

Later treatment and current statutory equivalence have not been comprehensively verified.

01 FACTS OF THE CASE

Chellsons Ltd. declared dividends for earlier years and credited amounts to its four shareholders, including Kishinchand Chellaram. The shareholders included the credits as dividend in their returns for assessment year 1945-46. In December 1947, after recognising that tax and excess-profits-tax liabilities had not been provided for and that the distributions may have come from capital, the company resolved that the dividends should instead be treated as shareholder loans and repaid. The tax authorities, Tribunal and Bombay High Court did not accept that later recharacterisation for the 1943-44 dividend credited on 29 September 1944 (SCR pp.270-274; PDF pp.3-7).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 16(2) deemed dividend income to arise in the previous year when it was paid, credited or distributed. The amounts had been declared, credited, received and returned as dividend. Even if the company had improperly distributed capital without adequate tax provision, possible company-law consequences for directors or possible recovery from shareholders were separate questions. Once the tax liability attached, a later resolution treating the amounts as loans could not retrospectively change the original receipt or remove that liability (SCR pp.274-276; PDF pp.7-9). The broader contention that the payment was not dividend at all had not arisen before the Tribunal and was outside the section 66 reference; in any event, the Court said a payment made as dividend does not lose its character merely because it came from capital (SCR pp.276-277; PDF pp.9-10).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court rejected the attempt to undo the tax character of the credited dividend by the later resolution. All four appeals failed and were dismissed; there was no order as to costs (SCR p.277; PDF p.10).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue. The dividend remained taxable for the relevant year notwithstanding the company's later unanimous resolution describing it as a loan. The Court did not adjudicate a separate company recovery claim against the shareholders (SCR pp.275-277; PDF pp.8-10).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: a later corporate resolution or bookkeeping reversal should not be assumed to reopen a tax consequence that attached when an amount was originally declared, credited or paid. Analyse the taxing provision's event and timing first, then separately examine company-law validity, restitution and director liability. Preserve the distinction between an issue decided on merits and one that was outside the scope of the statutory reference.

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

SOURCE & VERIFICATION

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

Exact 10-page catalogue asset read and visually inspected in full. The Kishinchand report ends on SCR p.277 / PDF p.10; the balance of PDF p.10 begins the next reported case and is excluded from the note.

[Open cited source rendition](#)

Catalogue asset 1963_2_268_277: exact SHA-256

a643fc04fbe2ff9fe38c0844788fc4dcb029d127a4f2ce302618fa92c5db337d; 10 pages.

The source verifies the parties, docket, Bombay High Court origin, bench, decision date, statutory provisions and operative dismissal.

The only published name collision is a materially different 1980 Kishinchand Chellaram judgment. No exact source-hash, asset-ID, SCR-citation or civil-appeal-number match was found.

STATUTORY SCOPE

Historical section 16(2) of the repealed 1922 Act and historical company-law rules. No automatic equivalence to current dividend taxation or Companies Act provisions is asserted.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and present statutory applicability were not 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 complete 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.