

Commissioner of Income-tax, Bombay v. Robert J. Sas

Civil Appeals Nos. 136 to 138 of 1962

[1963] Supp. 2 SCR 209 | 1962-11-16

Historical deemed-dividend reassessment: section 23A fixed the fictional distribution at the general-meeting date, so section 34(1)(b) notices served more than four years after the relevant assessment year were time-barred.

Indian Income-tax Act, 1922: sections 23A(1), 34(1)(b), 34(3) and 66(1)

5-judge bench; unanimous judgment delivered by J. L. Kapur, J. | S. K. Das, J. | J. L. Kapur, J. | A. K. Sarkar, J. | M. Hidayatullah, J. | Raghubar Dayal, J.

Assessment years: 1949-50

Historical statutory setting

The holding depends on sections 23A and 34 of the repealed Indian Income-tax Act, 1922 and the historical four-year period.

Reference and issue limits

The Court did not reconsider whether section 34 procedure was necessary, and it refused to entertain the separate section 34(3) completion-period argument because that issue was outside the referred question.

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

A.C.E.C. Private (India) Ltd. earned profits but declared no dividend at its 4 December 1948 shareholders' meeting. On 29 March 1954 the Income-tax Officer made a section 23A(1) order deeming undistributed income to have been divided among Paul Rouffart, Paul Victor Hermans and Robert J. Sas. Section 34 notices were served on each shareholder on 1 April 1954. After assessments and appeals, the Tribunal accepted that service fell beyond section 34(1)(b)'s four-year period; the High Court answered the referred questions against Revenue (SCR pp.209-212; PDF pp.1-4).

Source: [Primary judgment: facts and reference questions](#)

02 DISCUSSION BY THE HON'BLE COURT

Earlier Supreme Court authority had already established that section 23A itself did not provide the machinery for assessing shareholders and that assessment had to proceed under section 34, so the first referred question was not argued. On limitation, section 23A required testing distributions through the sixth month after the general meeting but expressly deemed the undistributed balance to have been distributed at the general-meeting date. The fictional receipt therefore occurred on 4 December 1948, within assessment year 1949-50, rather than on 30 June 1949. Even though a section 23A order could be made at any time, shareholder assessment remained subject to section 34(1)(b), whose four-year period ran from the end of the assessment year. The Court did not allow Revenue's section 34(3) completion-period argument because the referred question concerned timely service, not time to complete an assessment after valid service (SCR pp.212-216; PDF pp.4-8).

Source: [Primary judgment: statutory discussion](#)

03 JUDICIAL DECISION

The Court upheld the High Court's answer: the section 34(1)(b) assessments made after four years from the end of assessment year 1949-50 were out of time. Revenue's appeals were dismissed with costs, with one hearing fee (SCR p.216; PDF p.8).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the three shareholder-assesseees: the reassessments could not proceed on notices served outside section 34(1)(b)'s four-year period; Revenue's appeals failed (SCR p.216; PDF p.8).

Source: [Primary judgment: operative outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: when a charging or deeming provision uses one date to test compliance but fixes another date for the fictional receipt or accrual, limitation must be computed from the date the statute expressly assigns to the deemed event. A later administrative determination does not automatically postpone the assessment year or reopen a limitation period. For present work, map the current provision, notice regime and limitation language independently; this ruling does not transfer the 1922 Act's four-year rule into current law.

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

SOURCE & VERIFICATION

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

Full 8-page catalogue source read in page-preserving text and visually inspected; the preceding-report fragment and following-report boundary were checked.

Open cited source rendition

Exact source bytes, SHA-256 and eight-page count match catalogue asset S_1963_2_209_216; every source page was read and visually inspected.

The source verifies the title, three connected appeals, five-member bench, decision date, historical statutory issue and dismissal with costs.

No exact source-hash, asset-ID, SCR-citation, docket, party-title or same-judgment match was found in the published corpus, reviewed archive or disposition register.

STATUTORY SCOPE

The ruling construes the repealed Indian Income-tax Act, 1922, including its former closely-held-company deemed-distribution and reassessment provisions. It does not determine limitation under the Income-tax Act, 1961 or any present deemed-dividend provision.

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.

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