

Commissioner of Income-tax, Bombay v. James Anderson

Civil Appeal No. 128 of 1963

[1964] 5 SCR 590 | 1963-12-02

Historical legal-representative liability for deemed dividends: section 24B did not provide machinery to assess a deceased registered shareholder's estate for section 23A income deemed distributed after the account year in which he died, nor could the administrator be charged personally without statutory authority.

Indian Income-tax Act, 1922: sections 2(2), 3, 23A, 24B, 34(1)(b) and 66(1) | Indian Succession Act, 1925: section 211 | Indian Companies Act, 1913: section 35

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

Assessment years: year ending 31 March 1949 (wording of the reassessment notice)

Narrow machinery holding

The Court did not announce a general immunity for estates or legal representatives. It held that the specific 1922 Act provisions did not authorise this assessment of notional income arising after the statutory extension of the deceased's personality had ended.

Registered shareholder point

The deceased remained on the company register because the purchaser did not register the transfer. The administrator's estate vesting and power to transfer did not automatically make him the shareholder for every statutory right or liability.

No alternative personal charge

The Court rejected assessment of the receipts as the administrator's personal income because no cited charging provision produced that result; it did not determine every possible tax consequence under later or differently worded law.

Source-boundary overlap

PDF page 1 opens with the conclusion of Dr. Yash Pal Sahi before the James Anderson headnote. The James Anderson judgment then runs through PDF page 12.

01 FACTS OF THE CASE

Henry Gannon, registered holder of 2,674 shares in a private company, died on 13 May 1945. James Anderson obtained Indian letters of administration on 14 August 1946. Apart from 450 specifically bequeathed shares, the executor sold 2,224 shares to Morarka and delivered certificates and executed transfers on 12 October 1946, but Morarka never registered the transfer, so Gannon's name remained on the register. On 26 March 1953 the Income-tax Officer made a section 23A order treating undistributed company income as dividends distributed at the 26 May and 22 December 1947 meetings. A section 34(1)(b) notice to Anderson as administrator followed; the officer included deemed dividends of Rs.61,051 and Rs.3,73,099. The appellate authorities upheld that assessment, but the High Court answered its validity against Revenue (SCR pp.590-594; PDF pp.1-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 23A treated the registered shareholder as recipient of the notional dividend, but its order did not itself charge or assess tax. A legal representative could exercise some estate rights and satisfy some estate obligations, yet probate or administration alone did not substitute him on the company register for every purpose (SCR pp.594-596; PDF pp.4-6). Section 24B had been enacted to cure a specific assessment lacuna. Under Commissioner of Income-tax v. Amarchand Shroff, it extended the deceased's tax personality only through the previous year in which death occurred, covering income received before death and by representatives during that same year, not later years. Gannon died in May 1945, whereas the section 23A fiction operated in the account year ending 31 March 1949. Section 24B could not be read differently for actual and notional income, and the Court could not supply missing assessment machinery merely to prevent revenue loss (SCR pp.596-601; PDF pp.6-12).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court agreed with the High Court, though for somewhat different reasons, that the assessment on Anderson as administrator was invalid. Revenue's appeal was dismissed with costs (SCR p.601; PDF p.12).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of James Anderson/the administrator. The deemed dividends could not be assessed against him in the representative capacity used by the officer, and no personal-income charge was established (SCR p.601; PDF p.12).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: a legal-representative assessment requires four separate checks—the person on whom the underlying fiction operates, when the income is actually or notionally received, the time span for which the deceased's statutory personality continues, and the express machinery authorising assessment and recovery from the estate. A perceived gap cannot be filled by fairness to the Revenue; equally, this historical gap must not be assumed to survive later legislation (based on SCR pp.594–601; PDF pp.4–12).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 12-page SCR report read and checked. The editorial headnote and adjacent-report boundary text were distinguished from the judicial opinion and operative order.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 12-page count match catalogue asset 1964_5_590_601; every page was reviewed.

The source verifies Civil Appeal No. 128 of 1963, the stated bench, issues, reasoning and operative result.

No published or archived standalone AKHB note with this source hash, case identity and operative decision was found.

STATUTORY SCOPE

The Court addressed a machinery gap in the repealed 1922 Act, using the then forms of sections 2(2), 23A and 24B. Later legislation may contain different charging, representative-assessee, dividend and succession provisions. No current-law or later-treatment clearance is claimed.

LATER TREATMENT

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

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