

Bharat Fire and General Insurance Co. Ltd., New Delhi v. Commissioner of Income Tax, New Delhi

Civil Appeal No. 613 of 1963

[1964] 7 SCR 626 | 1964-04-02

Historical dividend definition: a pre-1956 distribution from an identifiable share-premium reserve was treated as dividend from accumulated profits under section 2(6A).

Indian Income Tax Act, 1922: sections 2(6A), 66A(2) | Companies Act, 1913: Table A, regulation 97 | Companies Act, 1956: section 78

3-judge bench | K. Subba Rao, J. | J. C. Shah, J. | S. M. Sikri, J.

Assessment years: 1954-55

Pre-1956 distribution

The Court held that section 78 did not retrospectively alter a distribution already made; it expressly left future applications of a section 78 share-premium account undecided.

Capital-gains contention not decided

The assessee's argument that the premium was a capital gain excluded from accumulated profits had not been raised below and was not allowed to be developed.

Source inconsistencies

The headnote says the shares were issued in 1945 while the judgment says 1946; the concluding discussion once prints Rs. 50,781 although the question and findings use Rs. 50,787. These discrepancies are preserved as limits, not reconstructed facts.

01 FACTS OF THE CASE

Bharat Fire held 11,950 B preference shares in Rohtas Industries Ltd. Rohtas had issued shares at a premium and kept the premium under Capital Reserve. During Bharat Fire's calendar year ending 31 December 1953, Rohtas paid it Rs. 50,787 as dividend from that reserve. The Income Tax Officer taxed the sum for assessment year 1954-55; the Appellate Assistant Commissioner reversed, but the Tribunal and Punjab High Court held for Revenue (SCR pp.627-628; PDF pp.2-3).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 2(6A)(a) included a distribution of accumulated profits that released company assets. The Court held that, before the 1956 Act, share premiums were legally available for distribution and were profits within regulation 97's company-law meaning, although they were not trading profits in the accounting sense (SCR pp.629-631; PDF pp.4-6). Section 78(3) disregarded pre-Act premiums already dealt with so that they no longer formed an identifiable reserve. Accordingly, section 78 did not convert this completed distribution into capital or change its taxability. The Court did not decide how future applications of a statutory share-premium account would be treated (SCR pp.631-632; PDF pp.6-7).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court answered the referred question affirmatively, agreed with the High Court that Rs. 50,787 was a taxable dividend, and dismissed the assessee's appeal with costs (SCR p.632; PDF p.7).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue. The distribution from the pre-1956 share-premium reserve was taxed as dividend on the limited historical question referred (SCR p.632; PDF p.7).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: establish when the premium arose, whether it remained identifiable, the company law then governing its use, and the exact statutory dividend definition for the distribution year. Do not treat this result as a general rule that every movement from a share-premium account is taxable dividend; the Court reserved later section 78 applications and declined an unpreserved capital-gains argument (based on SCR pp.629-632; PDF pp.4-7).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 7-page SCR report read and checked. The editorial headnote was distinguished from the judgment text and operative order.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 7-page count match catalogue asset 1964_7_626_632; the full extracted report and operative pages were reviewed.

The source verifies Civil Appeal No. 613 of 1963, the stated bench, issues, reasoning and operative result.

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

STATUTORY SCOPE

The case concerns assessment year 1954-55, a dividend paid before the Companies Act, 1956 commenced, and the historical section 2(6A) definition. Its conclusion does not determine present company-law restrictions or current dividend taxation.

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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