

Padmavati R. Saraiya and Others v. Commissioner of Income Tax, Bombay City-I

Civil Appeals Nos. 704 to 715 of 1963

[1965] 1 SCR 307 | 1964-09-22

Indo-Pakistan dividend taxation: abatement required the prescribed foreign assessment certificate, while a deferred dividend moiety was not taxable before unconditional payment or credit.

Indian Income Tax Act, 1922: sections 16(2), 34 and 49AA | Indo-Pakistan Agreement for Avoidance of Double Taxation dated 10 December 1947: articles IV and VI

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

Assessment years: 1949-50, 1952-53, 1953-54

Certificate condition controlled abatement

Domestic assessment power remained, but retention of tax was subject to the agreement's procedural conditions.

Dividend credit required availability

A general dividend-account entry did not make the deferred amount unconditionally drawable by each shareholder.

01 FACTS OF THE CASE

Shareholders received dividends from a company earning profits in India and Pakistan. They sought abatement under the 1947 agreement but did not produce Pakistan assessment certificates. For a later dividend, the company resolved to pay one moiety immediately and the other only after Pakistan remittances became free and funds were received; Revenue included the entire declared amount.

Source: [Case identity, facts and procedural history](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court held that the agreement did not prevent either Dominion from assessing under its own law; it restricted retention through abatements allocated by the schedule. Article VI required proof of the other Dominion's assessment, which the assesseees lacked. On section 16(2), payment or credit required the dividend to be unconditionally available to the member. Crediting the total to a general dividend account while the second moiety remained contingent did not meet that test.

Source: [Court's reasoning and statutory analysis](#)

03 JUDICIAL DECISION

All cross-appeals were dismissed without costs. The assesseees received no treaty abatement on the available record, while the deferred Pakistan-linked moiety was excluded from the relevant year's total income.

Source: [Holding and operative order](#)

04 OUTCOME / IN WHOSE FAVOUR

Mixed. Revenue prevailed on the abatement issue; the assesseees prevailed on timing of the deferred dividend.

Source: [Operative result](#)

05 AKHB REVIEW POINT

AKHB analysis: treaty-relief files require procedural proof as well as substantive allocation. For dividend timing, retain the resolution, ledger posting, payment conditions and evidence of when funds became unconditionally available to each shareholder.

Source: [Primary reasoning underlying the AKHB analysis](#)

SOURCE & VERIFICATION

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

Full 9-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 9-page count match catalogue asset 1965_1_307_315; the full extracted report and operative pages were reviewed.

The source verifies Civil Appeals Nos. 704 to 715 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 judgment applies the 1947 Indo-Pakistan arrangement and section 16(2) of the 1922 Act. It is not guidance on a current tax treaty, foreign-tax credit rule or dividend regime.

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.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. It is not legal or tax advice. Verify the original judgment, applicable statutory version and subsequent judicial treatment before relying on it. The AKHB Review Point is editorial analysis, not part of the Court's judgment.