

Navnitlal C. Javeri v. K. K. Sen, Appellate Assistant Commissioner of Income-tax, D Range, Bombay

Civil Appeal No. 45 of 1964

[1965] 1 SCR 909 | 1964-10-28

Constitutional validity of treating specified shareholder loans from closely held companies as dividend income

Constitution of India: Article 19 and Seventh Schedule List I Entry 82 | Indian Income-tax Act, 1922: sections 2(6A)(e) and 12(1B)

Five-judge Constitution Bench; majority judgment by P. B. Gajendragadkar, C.J.; dissent by Raghubar Dayal, J. | P. B. Gajendragadkar, C.J. | K. N. Wanchoo, J. | M. Hidayatullah, J. | Raghubar Dayal, J. | J. R. Mudholkar, J.

Historical ruling; verify current law

This judgment applies historical legislation and facts. Do not treat this note as a current-law or citator-status certificate.

01 FACTS OF THE CASE

A shareholder holding 11 of 845 shares borrowed more than Rs.4 lakh from a private electricity company. The assessment included Rs.2,83,126 of accumulated profits as deemed dividend. He challenged Parliament's competence and the reasonableness of the statutory fiction.

Source: [Primary judgment: facts and procedural setting](#)

02 DISCUSSION BY THE HON'BLE COURT

The majority read "income" in Entry 82 broadly and treated the closely held company loan rule as a permissible anti-avoidance device limited by accumulated profits and statutory conditions. It also considered a binding Board circular protecting genuinely repaid earlier loans. The dissent regarded taxing more than the borrower's proportionate share as lacking rational connection and unreasonably affecting property rights.

Source: [Primary judgment: reasoning](#)

03 JUDICIAL DECISION

Sections 2(6A)(e) and 12(1B), as applied, were upheld by the majority against legislative-competence and Article 19 challenges.

Source: [Primary judgment: holdings](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee appeal dismissed by majority; Raghubar Dayal J would have allowed it.

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

05 AKHB REVIEW POINT

AKHB analysis: apply the deemed-dividend rule only after proving each statutory condition and the relevant accumulated-profit limit. Preserve the majority/dissent distinction and separately verify later statutory wording.

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

SOURCE & VERIFICATION

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

Complete 24-page SCR report read in page-preserving text and every page image inspected, from the reported opening page through the operative disposition.

[Open cited source rendition](#)

Exact catalogue SHA-256 and 24-page count verified; every page was read and visually inspected.

STATUTORY SCOPE

Historical statutory provisions are described as they appeared in the report. Verify the current enactment, amendments and later judicial treatment before reliance.

LATER TREATMENT

Source checked 2026-10-12. No comprehensive later-treatment or present-law clearance is represented. The note reports the historical statutory text and result in this primary report only.

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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General legal and tax research only; not legal or tax advice. Verify the complete judgment, governing statutory version 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.