

Bengal & Assam Investors Ltd. v. Commissioner of Income-tax, West Bengal

Civil Appeal No. 508 of 1964

[1966] 2 SCR 471 | 1965-11-02

Investment-company dividends: mere acquisition and holding of shares for dividend did not amount to dealing in shares, so dividend income was computed under section 12 rather than section 10.

Indian Income-tax Act, 1922: sections 6, 10, 12, 24(2), 66(1) and 66(4) | Excess Profits Tax Act, 1940: section 2(5) proviso (comparative discussion)

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

Assessment years: 1949-50, 1950-51

Historical head-of-income ruling

The holding applies the pre-1955 1922 Act and the facts stated in the reference. It does not classify dividends or securities activity under the current Act.

01 FACTS OF THE CASE

Bengal & Assam Investors Ltd. was incorporated in January 1947 with broad objects including acquiring, holding, selling and varying investments, lending and undertaking financial transactions. In AY 1949-50, grossed-up dividends of Rs.32,727 and expenditure of Rs.1,06,583 produced a claimed deficiency; in AY 1950-51, gross dividends of Rs.1,18,238 less expenditure of Rs.51,843 left Rs.66,395. The officer and appellate authorities classified dividends under section 12, affecting carry-forward and set-off. The Tribunal's stated case treated the company as an investment holder, not a share dealer. The referred question asked only whether its dividend income was chargeable as profits and gains under section 10.

Source: [Company objects, assessment figures and section 12 treatment: SCR pp.472-474 / PDF pp.2-4](#); [Supplementary statement and limits of referred question: SCR pp.475-476 / PDF pp.5-6](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court refused to reformulate the reference into the broader question whether earlier losses could be set off under section 24(2), because the High Court had not been asked to frame that question. Confined to sections 10 and 12, it distinguished authorities addressing whether income retained its business character for other statutory purposes. Mere corporate objects and incorporation to invest did not prove that shares were held as stock-in-trade. Before dividends could be computed under section 10, the taxpayer had to carry on business in respect of the shares by dealing in them. The facts showed only acquisition and holding to earn dividends, a position no different from an individual investor. A company's memorandum was relevant but not conclusive of the activity actually carried on.

Source: [Refusal to expand the referred question and section 10/12 issue: SCR pp.476-477 / PDF pp.6-7](#); [Share-dealing requirement and limits of corporate objects: SCR pp.478-479 / PDF pp.8-9](#)

03 JUDICIAL DECISION

On the facts stated, the Court held that the company was not carrying on business in respect of the shares merely by acquiring and holding them for dividends. It affirmed the High Court's negative answer to the section 10 question and dismissed the appeal with costs. It did not decide the separately proposed section 24(2) set-off question.

Source: [No share-dealing business and appeal dismissed: SCR pp.478-479 / PDF pp.8-9](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Revenue. Dividend income was not computable under section 10 on the stated investment-holding facts, and the assessee's appeal failed. The judgment expressly left the proposed section 24(2) loss-set-off question outside its decision.

Source: [Negative answer and final dismissal: SCR p.479 / PDF p.9](#)

05 AKHB REVIEW POINT

AKHB analysis: classification should follow actual securities activity, not the taxpayer's corporate label or objects clause alone. Preserve trading frequency, turnover, holding periods, accounting classification, financing, board decisions and evidence of whether shares were acquired for resale or income. Also keep the question referred separate from adjacent set-off issues the Court declined to decide. Present advice requires current statutory provisions and later case law; this pre-1955 ruling is not current-law clearance.

Source: [AKHB analysis based on the limited reference and actual share-dealing test](#)

SOURCE & VERIFICATION

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

Full nine-page SCR report read and visually checked. The editorial headnote on PDF p.1 was distinguished from Sikri J.'s judgment beginning on PDF p.2; the procedural history, limited referred question, shareholding/business analysis and operative dismissal through PDF p.9 were reviewed.

Open cited source rendition

Exact source bytes, SHA-256 and nine-page count match catalogue asset 1966_2_471_479; every PDF page was read and visually checked.

The judicial text verifies Civil Appeal No. 508 of 1964, decision on 2 November 1965, the three-member bench and the AY 1949-50/1950-51 assessment history.

No Bengal & Assam Investors party/decision record was found in content/supreme-court-cases.json or the reviewed-release archive; later catalogue discussion citing this decision is not an alternate source.

STATUTORY SCOPE

This decision construes the head-of-income scheme of the repealed Indian Income-tax Act, 1922 before the Finance Act, 1955 amendment discussed in the judgment. Current dividend taxation, business-income classification and loss-set-off provisions have not been checked.

LATER TREATMENT

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

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