

Hari Prasad Jayantilal & Co. Ltd. v. Income-tax Officer, Special Investigation Circle-B

Civil Appeal No. 871 of 1964

[1966] 2 SCR 732 | 1965-11-25

Withdrawal of historical income-tax rebate where a voluntary liquidator distributed accumulated profits as dividends under sections 2(6A)(c) and 35(10).

Indian Income-tax Act, 1922: sections 2(6A)(c) and 35(10) | Finance Act, 1955: omission of proviso to section 2(6A)(c) | Finance Act, 1956: amendment of section 2(6A)(c) and insertion of section 35(10) | Indian Companies Act, 1913: section 17(2) and Table A, Articles 95, 96 and 97 | Companies Act, 1956: sections 205, 487, 491, 497(5) and 512

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

Assessment years: 1948-49 to 1953-54

Obsolete rebate-recapture scheme

The result depends on sections 2(6A)(c) and 35(10) of the 1922 Act and the specified Finance Act amendments. It must not be used as a current liquidation-distribution rule without separate statutory review.

01 FACTS OF THE CASE

Hari Prasad Jayantilal & Co. Ltd. received rebate on undistributed profits for AYs 1948-49 to 1953-54. After declaring Rs.2,15,232 as dividend for the year ended 31 December 1956, the company resolved on voluntary winding up from 1 October 1957. Between October 1957 and July 1959, its liquidator made distributions to shareholders from accumulated profits and issued income-tax refund certificates. The Income-tax Officer used section 35(10) to withdraw the rebates and demand tax. The company challenged both the reach of section 35(10) to rebates from earlier assessment years and whether a liquidator's distributions could amount to the company's declaration of dividends.

Source: [Rebates, liquidation distributions and two issues: SCR pp.733-734 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Following Ahmedabad Manufacturing and Calico Printing Co., the Court held that section 35(10)'s four-year period ran from the end of the financial year in which the rebated amount was used to declare dividends, not from the older assessment years in which rebate had been granted. A voluntary-winding-up resolution did not dissolve the company or vest its property in the liquidator; the liquidator acted as agent or administrator for the company. The amended inclusive definition in section 2(6A)(c) treated liquidation distributions attributable to accumulated profits, capitalised or not and without the earlier time restriction, as dividends. The simultaneous 1956 amendments formed a single scheme to tax previously rebated undistributed profits when later used for dividends. Because company law prescribed no special machinery for interim dividends, the liquidator's distributions with refund certificates could constitute the company's declaration of dividends for section 35(10).

Source: [Four-year period and statutory text: SCR pp.735-736 / PDF pp.4-5](#); [Liquidator agency and integrated dividend scheme: SCR pp.736-738 / PDF pp.5-7](#); [Interim-dividend reasoning: SCR pp.738-739 / PDF pp.7-8](#)

03 JUDICIAL DECISION

The Court rejected both challenges. Section 35(10) could reach the earlier rebates within four years from the relevant later use, and the liquidator's distribution of accumulated profits with refund certificates was a declaration of dividends for the statutory scheme. The company's appeal was dismissed with costs.

Source: [Final dividend characterisation and dismissal: SCR p.739 / PDF p.8](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue. The Income-tax Officer's withdrawal of the rebates for AYs 1948-49 to 1953-54 survived, because the liquidation distributions were treated as dividend declarations within the historical recapture regime.

Source: [Revenue outcome: SCR p.739 / PDF p.8](#)

05 AKHB REVIEW POINT

AKHB analysis: for any historical rebate-recapture dispute, trace the rebate year, the later use of the profits, the statute's chosen trigger for limitation, and the dividend definition in force on the distribution date. In a liquidation, separate the company's continued legal existence and the liquidator's agency from the tax character assigned by statute. Reassess every element under current tax and company law before relying on this decision.

Source: [AKHB analysis source: limitation trigger and liquidation-distribution reasoning at SCR pp.735-739 / PDF pp.4-8](#)

SOURCE & VERIFICATION

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

Full eight-page SCR source file read. The editorial headnote on PDF pp.1-2 was distinguished from the unnumbered judicial text beginning on PDF p.2; the complete statutory analysis and dismissal order through PDF p.8 were reviewed.

Open cited source rendition

Exact source bytes, SHA-256 and eight-page count match catalogue asset 1966_2_732_739; all eight pages were read and visually checked.

The report verifies Civil Appeal No. 871 of 1964, decision on 25 November 1965, the three-member bench and AYS 1948-49 to 1953-54.

No matching published title, citation, case number, date or source hash was found in content/supreme-court-cases.json or prior reviewed releases.

STATUTORY SCOPE

The case construes a transitional rebate-recapture scheme and dividend definition under the repealed Indian Income-tax Act, 1922, together with historical companies legislation. It does not determine current taxation of liquidation distributions, dividend definitions, rectification limits or company-winding-up law.

LATER TREATMENT

Source checked 2026-10-10. Later judicial treatment and the current law governing liquidation distributions, dividends and rectification have not been comprehensively checked; no current citator clearance is represented.

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