

Kishanchand Lunidasingh Bajaj v. Commissioner of Income-tax, Mysore

Civil Appeal No. 234 of 1965

[1966] 3 SCR 573 | 1966-02-10

Dividend income: dividends may be taxed in the hands of the real owner of shares even when another person is the registered shareholder.

Indian Income-tax Act, 1922: sections 2(15), 3, 4, 16(2) and 18(5) | Indian Income-tax Act, 1922: section 23A (distinguished)

5-judge bench | P. B. Gajendragadkar, C.J. | K. N. Wanchoo, J. | J. C. Shah, J. | S. M. Sikri, J. | V. Ramaswami, J.

Assessment years: 1959-60

Taxability distinguished from grossing-up and credit

The Court held the real owner taxable on actual dividends, while explaining that statutory grossing-up and the related credit under sections 16(2) and 18(5) were available only where the registered shareholder was the real owner.

Historical statute

The ruling applies the repealed 1922 Act and should not be treated as current dividend-tax or beneficial-ownership clearance.

01 FACTS OF THE CASE

Kishanchand Bajaj and his seven sons formed an HUF owning shares in public companies. Shares registered in Kishanchand's name were credited as capital of a family money-lending and commission business. After two sons separated, a partnership continued the business; dividends from the shares were credited to the firm's profit and loss account. For AY 1959-60 the officer rejected the claim that the shares belonged to the firm and found the HUF to be their real and legal owner. Before the Supreme Court, the HUF argued that because Kishanchand was the registered holder, only he could be taxed on the dividends.

Source: [Family, partnership, share ownership and referred question: SCR pp.574-575 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Sections 3 and 4 charged dividend income in the hands of the person to whom it accrued or by whom it was received. Although a company recognises and pays the registered shareholder, a trust or fiduciary relationship may make someone else the real owner, and the dividend then accrues for tax purposes to that real owner. Section 16(2) was a timing and grossing-up provision, not an exemption that confined dividend taxability to the registered shareholder. The Court drew a precise distinction: actual dividend could be taxed once in the real owner's hands, but grossing-up under section 16(2) and credit under section 18(5) required the registered holder also to be the real owner. Howrah Trading concerned grossing-up and credit, while Shakuntala concerned notional dividends under section 23A; neither displaced the ordinary charge on actual dividend received by the real owner.

Source: [Real-owner accrual principle: SCR p.576 / PDF p.4](#); [Section 16\(2\), grossing-up and single taxation: SCR pp.578-579 / PDF pp.6-7](#); [Howrah Trading and Shakuntala distinguished: SCR pp.580-581 / PDF pp.8-9](#)

03 JUDICIAL DECISION

The Court rejected the HUF's argument that inability to gross up the dividend or obtain credit for company-paid tax eliminated liability on the dividend itself. No statutory provision supported that result, and it could facilitate gross tax evasion. The appeal was dismissed with costs.

Source: [Rejection of the HUF's contention and dismissal: SCR p.581 / PDF p.9](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue. The HUF was taxable on the actual dividend as real owner of the shares, notwithstanding registration in Kishanchand's name. The Court did not grant the HUF grossing-up or credit benefits reserved by the historical provisions for the registered shareholder.

Source: [Taxation of real owner distinguished from grossing-up and credit: SCR pp.578-581 / PDF pp.6-9](#)

05 AKHB REVIEW POINT

AKHB analysis: separate three questions that may otherwise be conflated: who beneficially owns the shares, who receives or is entitled to the dividend, and who satisfies the statute's formal conditions for grossing-up or tax credit. Test each against the governing provision and avoid treating denial of a credit mechanism as exemption from the underlying charge. For present matters, verify current statutory language, dematerialised ownership records and later precedent independently.

Source: [AKHB analysis based on the taxability/grossing-up distinction](#)

SOURCE & VERIFICATION

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

Full 9-page SCR report read and visually checked. The editorial headnote on PDF pp.1-2 was distinguished from Shah J.'s unnumbered judgment beginning on PDF p.2 and continuing through PDF p.9.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 9-page count match catalogue asset 1966_3_573_581; every page was read as extracted text and inspected as a rendered image.

The judicial text verifies Civil Appeal No. 234 of 1965, the five-member bench, decision date, AY 1959-60 and dismissal with costs.

No published AKHB record with this party identity, case number or source asset was found. References to Kishanchand Bajaj in later reviewed cases are citations to this precedent, not duplicate publications.

STATUTORY SCOPE

The decision concerns dividend taxation, grossing-up and tax credit under the repealed Indian Income-tax Act, 1922. It does not independently determine present beneficial-ownership, dividend-credit or attribution rules.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive later treatment and current statutory attribution or credit rules have not been checked; no current-law or citator clearance is represented.

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