

Associated Clothiers Ltd. v. Commissioner of Income-tax, Calcutta

Civil Appeal No. 969 of 1965

[1967] 1 SCR 512 | 1966-09-23

Sale of a depreciable building between two companies: stated, unchallenged item consideration attracted the second proviso to section 10(2)(vii), notwithstanding a claimed 'sale to self'.

Indian Income-tax Act, 1922: section 10(2)(vii), second proviso | Indian Income-tax Act, 1922: sections 66(1) and 66A(2)

3-judge bench | J. C. Shah, J. | V. Ramaswami, J. | V. Bhargava, J.

Assessment years: Account year 1952-53 (assessment year not stated in the judgment)

Historical balancing-charge provision

The holding applies section 10(2)(vii) of the 1922 Act to the proved transaction. It does not certify treatment under current depreciation, capital-gains, slump-sale or anti-avoidance provisions.

01 FACTS OF THE CASE

Phelps & Company Ltd., a private clothiers-and-tailors company, changed its name to Associated Clothiers Ltd. on 21 March 1952. A new Phelps & Co. Ltd. was incorporated the same day, and the appellant agreed to transfer its assets and liabilities to the new company for shares worth Rs.12,30,000, Rs.23,291-10-5 cash and assumption of liabilities. One transferred Connaught Place building had original cost Rs.97,258, written-down value Rs.57,011 and stated agreement/balance-sheet value Rs.2,24,673. The Income-tax Officer treated the difference between original cost and written-down value as deemed profit under the second proviso to section 10(2)(vii). The Tribunal accepted the company's argument that the transfer was in substance a sale to itself; the Calcutta High Court answered the reference against the company.

Source: [Corporate reorganisation, transfer terms, building figures and tax dispute: SCR pp.513-514 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court first held that the High Court could not rely on additional evidence outside the Tribunal's findings, but accepted the statement of case that all assets and liabilities had been transferred. It reviewed decisions about transfers by persons or partners to companies they owned, yet found it unnecessary to decide broadly when tax authorities may disregard corporate personality. This was a sale by one company to another, not merely individuals changing the form in which they carried on business. The company had not proved the agreed values or share consideration to be notional. Nor did the slump-sale argument assist it: although the entire assets were transferred together, the agreement expressly allocated consideration to each item, including the building. Contentions that the transaction was merely nominal or only a business-position readjustment had not been raised before or decided by the Tribunal. The Court therefore confined its ruling to a proved sale of the building for stated consideration exceeding original cost.

Source: [Reference-record limits and distinct-company issue: SCR pp.514-518 / PDF pp.3-7; Allocated consideration, narrow holding and dismissal: SCR p.519 / PDF p.8](#)

03 JUDICIAL DECISION

On the narrow proved record, the building was sold for stated consideration not shown to be notional. Because that consideration exceeded original cost, the difference between original cost and written-down value was profit within the second proviso to section 10(2)(vii). The company's appeal was dismissed with costs.

Source: [Narrow holding and operative dismissal: SCR p.519 / PDF p.8](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Revenue. The deemed-profit treatment of Rs.40,247 remained sustained and the assessee company's appeal was dismissed with costs. The judgment does not establish that corporate identity may always be ignored or that every whole-business transfer has item-wise consideration.

Source: [Revenue outcome under section 10\(2\)\(vii\): SCR p.519 / PDF p.8](#)

05 AKHB REVIEW POINT

AKHB analysis: for a reorganisation or whole-business transfer, preserve separate proof of the legal parties, transferred assets, whether item values were expressly allocated, valuation support for cash and share consideration, and every issue raised before the Tribunal. Do not assume common ownership makes a company-to-company sale a transfer to self. Equally, do not overread this decision as a comprehensive current slump-sale or corporate-veil rule: the Court relied on the particular agreement and burden-of-proof failure under a repealed provision.

Source: [AKHB analysis based on corporate identity, proof of consideration and allocated asset values](#)

SOURCE & VERIFICATION

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

Full 8-page SCR source file read. The editorial headnote on PDF p.1 was distinguished from the unnumbered judicial text on PDF pp.2-8; the complete operative judgment was reviewed.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and eight-page count match catalogue asset 1967_1_512_519; every page was read.

The judicial text verifies Civil Appeal No. 969 of 1965, decision date 23 September 1966 and the three-member bench.

The Court expressly decided on the narrow ground of stated item consideration not shown to be notional; it left broader corporate-personality doctrine unresolved.

No title, citation or party match for this judgment was found in the existing published case collection or reviewed archive.

STATUTORY SCOPE

This decision construes the depreciation-balancing-charge rule in section 10(2)(vii) of the repealed Indian Income-tax Act, 1922. It does not resolve current block-of-assets, slump-sale or related-party valuation law.

LATER TREATMENT

Source checked 2026-10-10. Later judicial treatment and present law on depreciable assets, corporate reorganisations and slump sales have not been comprehensively checked; no current-law or citator clearance is represented.

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