

Commissioner of Income-tax, Bombay City-I v. Godavari Sugar Mills Ltd.

Civil Appeal No. 28 of 1966

[1967] 1 SCR 798 | 1966-10-10

Deemed dividend under section 23A: a legal fiction could not deem a company to have declared, on its annual-general-meeting date, a dividend then prohibited by the 1948 dividend-limitation Ordinance.

Indian Income-tax Act, 1922: section 23A | Public Companies (Limitation of Dividends) Ordinance, 1948: sections 3 and 12 | Public Companies (Limitation of Dividends) Act, 1949: sections 2(3)(i) and 13 | General Clauses Act, 1897: section 6(c), (d) and (e)

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

Assessment years: 1949-50

Historical dividend-control setting

The result turns on a repealed 1922 Act provision and the dividend restriction in force on 30 December 1948; it is not a current dividend-distribution rule.

Source-date discrepancy

The editorial headnote says 13 December 1948, but the signed judicial reasoning repeatedly identifies the annual general meeting as 30 December 1948. This note follows the opinion text.

01 FACTS OF THE CASE

Godavari Sugar Mills Ltd.'s accounting year ended on 31 May 1948. At its annual general meeting on 30 December 1948 it declared Rs.3,68,433 as dividend, complying with the ceiling then imposed by the Public Companies (Limitation of Dividends) Ordinance, 1948. For AY 1949-50, however, the Income-tax Officer made a 1955 order under section 23A deeming additional undistributed assessable income to have been distributed as dividend at that meeting. The departmental authorities upheld the order; the Bombay High Court answered the referred question for the company, and the Commissioner appealed.

Source: [Accounting period, meeting, dividend and section 23A proceedings: SCR pp.799-801 / PDF pp.2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 23A deemed the undistributed income to have been distributed by the company as dividend on the date of the annual general meeting. Because the 1948 Ordinance was in force on that date and prohibited a higher actual dividend, its restriction also constrained the fictional dividend: the tax officer could not deem the company to have done what it then could not lawfully do. The provisions were repugnant to that extent while the Ordinance operated. The later 1949 Act did not remove this conclusion. The relevant law was the law on the deemed-distribution date, and section 6(c)-(e) of the General Clauses Act preserved accrued consequences absent a contrary intention in the repealing Act. The Court expressly left undecided the separate argument about declaring an additional dividend within six months after the meeting.

Source: [Legal-fiction constraint and implied repugnancy: SCR pp.802-804 / PDF pp.5-7; Repeal, relevant date and General Clauses Act savings: SCR pp.804-806 / PDF pp.7-9](#)

03 JUDICIAL DECISION

The Supreme Court affirmed the Bombay High Court and dismissed the Commissioner's appeal with costs. The section 23A order could not validly create a notional dividend at a date when the Ordinance prohibited the corresponding actual declaration.

Source: [General Clauses Act conclusion and operative dismissal: SCR p.806 / PDF p.9](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee-company. The Revenue's appeal was finally dismissed with costs, leaving the High Court's favourable answer and the invalidation of the section 23A order intact.

Source: [Final dismissal with costs: SCR p.806 / PDF p.9](#)

05 AKHB REVIEW POINT

AKHB analysis: when a tax provision creates a deemed transaction at a specified historical date, test the fiction against every legal restriction then operative; the fiction ordinarily carries necessary incidents of the imagined event but does not authorise an unlawful act. For any repeal issue, separately identify the relevant statutory date, the repealing provision, the General Clauses Act saving and any contrary intention. This judgment's practical lesson is interpretive only because the governing tax and dividend-control provisions are obsolete.

Source: [AKHB analysis based on the legal-fiction and repeal reasoning](#)

SOURCE & VERIFICATION

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

Full 9-page SCR report read; the editorial headnote on PDF pp.1-2 was distinguished from Ramaswami J.'s unnumbered opinion beginning on PDF p.2. The opinion, rather than the headnote, was used for the annual-general-meeting date.

Open cited source rendition

Exact source bytes, SHA-256 and nine-page count match catalogue asset 1967_1_798_806; all pages were read and visually checked.

The report verifies Civil Appeal No. 28 of 1966, the 10 October 1966 decision date and the three-member bench.

The Court did not decide whether section 23A independently permitted a further dividend after the annual general meeting; it resolved the appeal on the law operating at the deemed-distribution date and the repeal-saving point.

STATUTORY SCOPE

The ruling applies section 23A of the repealed Indian Income-tax Act, 1922 and temporary dividend-control legislation governing the 30 December 1948 meeting. No current-law analogue under the Income-tax Act, 1961 or Companies Act, 2013 has been verified.

LATER TREATMENT

Source checked 2026-10-10. Later treatment of section 23A legal fictions, repeal savings and implied repugnancy has not been comprehensively checked; no current citator clearance is represented.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

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