

M. M. Parikh, Income-tax Officer, Special Investigation Circle-B, Ahmedabad v. Navanagar Transport & Industries Ltd. & Another

Civil Appeal No. 1082 of 1965

[1967] 2 SCR 38 | 1966-11-01

Undistributed-profits super-tax: an order under section 23A of the 1922 Act was not an order of assessment governed by section 34(3)'s limitation period.

Indian Income-tax Act, 1922: sections 3, 4, 23, 23A, 30, 31, 34(3) and 55 | Income-tax Act, 1961: sections 104 and 106 (comparative historical discussion) | Constitution of India: Article 226

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

Assessment years: 1957-58

Repealed undistributed-profits super-tax regime

The holding addresses section 23A of the 1922 Act as amended in the 1950s. It must not be treated as a present limitation rule for current company or dividend taxation without separate statutory and citator review.

01 FACTS OF THE CASE

Navanagar Transport & Industries Ltd., a company in which the public were not substantially interested, declared Rs.8,767 as dividend for the year ended 31 March 1957. Its taxable income for AY 1957-58 was determined at Rs.1,10,769. Because the dividend was below the statutory percentage after specified tax reductions, the Income-tax Officer issued a notice on 15 November 1961 proposing action under section 23A and sought the Inspecting Assistant Commissioner's permission under sub-section (8). The company sought mandamus under Article 226. The Gujarat High Court treated a post-1955 section 23A order as an order of assessment subject to section 34(3) and held that no such order could be made after 31 March 1962.

Source: [Dividend, assessed income, section 23A notice and High Court ruling: SCR pp.39-40 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court traced section 23A before and after the Finance Acts of 1955 and 1957. The earlier scheme deemed undistributed income to be dividends and then required shareholder assessments; the amended scheme instead imposed additional super-tax on the company through an order after the officer examined the statutory distribution threshold and the company's commercial explanations. The Court rejected the argument that computation of income, determination of money payable or a procedural hearing necessarily made the section 23A order an assessment under section 34(3). It distinguished the statutory charge crystallised in an assessment under section 23 from the distinct liability imposed by the officer's section 23A order. The section heading could not expand the operative text. The newly enacted limitation in section 106 of the 1961 Act did not imply that the repealed Act had contained the same limit. Separate appeal language in sections 30 and 31 for an assessment and a section 23A order further supported their different character.

Source: [Meaning of assessment and distinction between sections 23 and 23A: SCR pp.45-47 / PDF pp.8-10; 1961 Act comparison and appeal-structure reasoning: SCR pp.47-49 / PDF pp.10-12](#)

03 JUDICIAL DECISION

The Court held that section 23A was not a charging section and that an order under it was not an order of assessment to which section 34(3)'s limitation period applied. It allowed the Income-tax Officer's appeal, dismissed the company's writ petition and awarded the Revenue costs in the Supreme Court and High Court.

Source: [Operative allowance of Revenue appeal and dismissal of writ: SCR p.49 / PDF p.12](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Revenue/Income-tax Officer. The assessee's jurisdictional limitation objection failed and its writ petition was dismissed. The Court resolved the legal character and limitation issue; it did not determine the eventual amount of additional super-tax on the merits.

Source: [Final result: SCR p.49 / PDF p.12](#)

05 AKHB REVIEW POINT

AKHB analysis: when asserting limitation against a historical tax order, first identify whether the governing statute labels and treats that order as an assessment, a separate liability order or recovery machinery. Compare the charging provision, order-making provision, appeal route and any express limitation text rather than relying on a heading or on the fact that money is computed. For present work, verify the currently applicable statute and later authorities; this 1922 Act ruling does not itself establish a current limitation period.

Source: [AKHB analysis based on the assessment/order distinction and express-limitation comparison](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 12-page SCR report read. The editorial headnote on PDF p.1 was distinguished from the unnumbered judgment beginning on PDF p.2; all statutory extracts and the operative conclusion through PDF p.12 were reviewed.

Open cited source rendition

Exact source bytes, SHA-256 and 12-page count match catalogue asset 1967_2_38_49; every PDF page was read.

The judicial text verifies Civil Appeal No. 1082 of 1965, decision on 1 November 1966, the three-member bench and AY 1957-58.

No record with the Navanagar party identity or this decision was found in content/supreme-court-cases.json; references to section 23A in other cases are not duplicates.

STATUTORY SCOPE

This decision construes the repealed Indian Income-tax Act, 1922 and the post-Finance Act 1955/1957 form of section 23A. The judgment itself compares sections 104 and 106 of the Income-tax Act, 1961, but no present statutory analogue, later repeal history or current limitation rule has been independently checked.

LATER TREATMENT

Source checked 2026-10-10. Later treatment of the section 23A characterisation and any current-law limitation analogue has not been comprehensively checked; no citator or current-law clearance is represented.

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

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