

Commissioner of Income-tax, Madhya Pradesh v. Dewas Cine Corporation

Civil Appeal No. 2163 of 1966

[1968] 2 SCR 173 | 1967-11-08

Dissolution allotment of theatres: no sale triggering historical depreciation recoupment.

Indian Income-tax Act, 1922: section 10(2)(vii), second proviso | Indian Partnership Act, 1932: sections 46 and 48

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

Assessment years: 1952-53

Historical sale requirement

The case concerns the second proviso to section 10(2)(vii) of the 1922 Act. It does not establish a present exemption from all taxes on dissolution or asset distribution.

01 FACTS OF THE CASE

Two partners each contributed a cinema theatre to their film-exhibition partnership effective 1 March 1947. Depreciation of Rs. 44,380 was allowed for AYs 1950-51 to 1952-53. On dissolution on 30 September 1951 the theatres were returned to their original owners through account adjustments. The Tribunal treated this as sale and recoupment; the High Court rejected inclusion of Rs. 44,380 for AY 1952-53.

Source: [SCR p. 174](#) / [PDF p. 2](#)

02 DISCUSSION BY THE HON'BLE COURT

The theatres had become partnership property, but distribution of the residue on dissolution adjusted partners' rights under sections 46 and 48. A sale ordinarily requires property transfer for a price. Allotting property in satisfaction of a partner's share did not become a sale merely because its value was determined on an actual or notional-sale basis. The Revenue's deemed-sale argument therefore failed.

Source: [SCR pp. 175-176](#) / [PDF pp. 3-4](#)

03 JUDICIAL DECISION

The High Court's answer favouring the assessee was upheld. Revenue's appeal was dismissed with costs; the disputed Rs. 44,380 was not includible under the second proviso on this dissolution allotment.

Source: [SCR p. 176 / PDF p. 4](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the firm on the depreciation-recoupment provision litigated. No general immunity for a genuine asset sale or for later statutory dissolution charges was decided.

Source: [SCR pp. 175-176 / PDF pp. 3-4](#)

05 AKHB REVIEW POINT

AKHB analysis: distinguish a genuine sale from distribution settling partnership rights, supported by the dissolution instrument and capital accounts. Do not infer a sale from an accounting revaluation alone. For a current transaction, separately verify the operative charging and deeming provisions rather than relying on this historical sale-based test.

Source: [AKHB analysis based on SCR pp. 175-176 / PDF pp. 3-4](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full four-page SCR report read, separating editorial headnote from judicial reasoning; no neighbouring case text used.

Open cited source rendition

Full source read; page pinpoints used because judgment paragraphs are unnumbered. Exact original bytes match the catalogue SHA-256.

STATUTORY SCOPE

This decision applies the Indian Income-tax Act, 1922 to the stated historical assessment years. Current statutory applicability and any Income-tax Act, 1961 or 2025 crosswalk are not determined.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive subsequent treatment has not been verified; no current citator clearance is represented.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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