

Laxmipat Singhanian v. Commissioner of Income-tax, U.P.

Civil Appeal No. 1188 of 1967

[1969] 1 SCR 904 | 1968-08-30

Historical deemed-dividend timing under section 23A: once the statutory fiction fixed accrual and assessment in the shareholder's earlier year, omission to assess that year did not permit the same dividend to be taxed in a later year merely when it was actually credited.

Indian Income-tax Act, 1922: sections 4(1)(b), 16(2), 23A(1), 23A(4) and 66(1)

3-judge bench; unanimous judgment delivered by J. C. Shah, J. | J. C. Shah, J. | V. Ramaswami, J. | A. N. Grover, J.

Assessment years: 1940-41, 1943-44

Correct year fixed by statutory fiction

The section 23A order deemed distribution on the 22 April 1939 general-meeting date, so the shareholder amount belonged to the corresponding previous year and assessment year 1940-41; an omitted assessment could not be shifted to 1943-44 on receipt.

Section 23A(4) prevented double taxation

The subsection excluded a later actual distribution where tax had been paid on the deemed dividend. The Court refused to turn that protective provision into an option to tax on actual receipt whenever the earlier statutory assessment had been missed.

No absolute constitutional bar on double taxation stated

The Court described a fundamental taxation rule subject to contrary express provision. The holding rests on the express timing commands of the 1922 Act and should not be represented as an unconditional rule for every receipt.

Different company and shareholder years appear

The referred question mentions the company's assessment year 1939-40, while the shareholder's deemed dividend was assessable in 1940-41 and the challenged actual-credit assessment was 1943-44. Those procedural years must not be collapsed.

01 FACTS OF THE CASE

Atherton West and Company Ltd., Kanpur was a company in which the public were not substantially interested. After it failed at its 22 April 1939 general meeting to declare the statutory level of dividend, the Income-tax Officer made a section 23A order on 18 November 1940 deeming Rs.3,32,691 distributed at that meeting. The shareholders' proportions were determined on 12 December 1941 but were not included in their appropriate assessments. On 24 April 1942 the company resolved to distribute Rs.2,98,000 from reserve, and Rs.23,328 was later credited to appellant shareholder Laxmipat Singhanian. The officer taxed that credit in assessment year 1943-44; the Tribunal agreed and the Allahabad High Court answered the section 66(1) reference for Revenue (SCR pp.905-906; PDF pp.2-3).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 23A(1) deemed the undistributed amount distributed among shareholders on the general-meeting date and expressly required each proportionate share to be included in the shareholder's total income. Read with sections 16(2) and 4(1)(b), that fiction fixed the relevant previous year; the officer had no option to ignore accrual and tax the amount in another year on later receipt (SCR pp.906-908; PDF pp.3-5). Section 23A(4) was designed to prevent the same income being taxed once as a deemed distribution and again on actual distribution. It did not create a fallback election to tax actual receipt because the earlier amount had not been assessed in the year expressly required by law (SCR pp.908-909; PDF pp.5-6).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court discharged the High Court's affirmative answer and answered the referred question in the negative. The Rs.23,328 could not be taxed in assessment year 1943-44 on the basis of the later credit after the statute had fixed the earlier deemed-distribution year. The appeal was allowed with costs in the Supreme Court; the High Court's no-costs order was left undisturbed (SCR p.909; PDF p.6).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Laxmipat Singhanian/the assessee-appellant. The later-year dividend assessment failed because the statutory fiction had attached the income to the earlier year (SCR pp.908-909; PDF pp.5-6).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: where legislation deems income to accrue or be distributed on a specified event, map the statutory event, relevant previous year, assessment year and any later cash receipt separately. An administrative failure to assess the statutorily prescribed year does not itself create authority to move the income to a later receipt year. Apply that discipline to the exact current provision independently; this historical section 23A ruling supplies no present-law dividend clearance (based on SCR pp.907-909; PDF pp.4-6).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 6-page SCR report read and checked. The editorial headnote and adjacent-report boundary text were distinguished from the judicial opinion and operative order.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 6-page count match catalogue asset 1969_1_904_909; every page was reviewed.

The source verifies Civil Appeal No. 1188 of 1967, the stated bench, issues, reasoning and operative result.

No published or archived standalone AKHB note with this source hash, case identity and operative decision was found.

STATUTORY SCOPE

The decision construes the then-operative deemed-distribution machinery in section 23A of the repealed Indian Income-tax Act, 1922, together with sections 4(1)(b) and 16(2). It does not establish the timing or taxability of dividends under later legislation. No current-law or later-treatment clearance was undertaken.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.