

Commissioner of Income-tax, West Bengal v. Allahabad Bank Ltd.

Civil Appeals Nos. 701 and 702 of 1968

[1969] 3 SCR 722 | 1969-02-14

Historical super-tax rebate computation: cash share premium qualified for inclusion in the defined paid-up capital when it remained an identifiable separate account within reserves; the Finance Act definition did not require an account outside reserves.

Finance Act, 1956: First Schedule, Part II, paragraph D and Explanation | Finance Act, 1957: Part II, paragraph D and Explanation | Companies Act, 1956: sections 78(1), 78(2), 78(3) and Schedule VI | Indian Companies Act, 1913

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

Assessment years: 1956-57, 1957-58

Definition-specific inclusion

The historical Finance Act explanations expressly referred to cash premiums standing to the credit of a share premium account. The result cannot be transplanted to a differently worded capital or deduction definition.

Identifiable account was enough

The Court required a separately identifiable account, but rejected Revenue's added condition that it stand outside reserves. This did not excuse non-compliance with every independent company-law presentation rule.

Different statutory positions across years

For AY 1956-57 the previous year ended before the Companies Act, 1956 came into force. The Court then gave the same Finance Act expression a consistent meaning for AY 1957-58 despite the new company-law provision.

Complete source boundary

All 8 PDF pages belong to this report, from its heading and headnote on PDF page 1 through the dismissal order on PDF page 8; no adjacent judgment text was included.

01 FACTS OF THE CASE

Allahabad Bank Ltd. had paid-up share capital of Rs.30,50,000 and cash share premium of Rs.45,50,000 received before 1 January 1954. It distributed Rs.5,49,000 in each of calendar years 1955 and 1956. For AYs 1956-57 and 1957-58, the officer excluded the premium when measuring whether dividends exceeded 6% of paid-up capital and reduced the available super-tax rebate by Rs.61,000. The AAC and Tribunal held that the separately identifiable premium within reserves had to be included in the defined paid-up capital, and the Calcutta High Court agreed on references for both years (SCR pp.723-725; PDF pp.2-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The 1956 and 1957 Finance Acts tied the rebate reduction to dividends exceeding 6% of paid-up capital and expressly increased that defined capital by cash premiums standing to the credit of the share premium account. For AY 1956-57 the relevant previous year ended on 31 December 1955, before the Companies Act, 1956 commenced, and the 1913 Act imposed no analogous obligation to move the premium into a distinct account outside reserves. An identifiable premium account within reserves therefore qualified (SCR pp.724-727; PDF pp.3-6). For AY 1957-58, section 78 and Schedule VI of the 1956 Companies Act separately regulated the premium account. But nothing in the Finance Act explanation required the tax account to be outside reserves. The same phrase should not receive a different meaning in the otherwise identical annual scheme without compelling grounds. Because the Rs.45,50,000 remained separately identifiable, it entered the paid-up-capital base for the rebate computation (SCR pp.727-729; PDF pp.6-8).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court affirmed the Tribunal and High Court for both years. A share premium account could be included in the paid-up capital for the relevant rebate computation when maintained as an identifiable separate account within reserves; it need not be outside reserves. Civil Appeals Nos. 701 and 702 of 1968 were dismissed with costs and one hearing fee (SCR pp.728-729; PDF pp.7-8).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Allahabad Bank Ltd./the assessee. Revenue failed to exclude the Rs.45,50,000 premium from the historical paid-up-capital measure, and both appeals were dismissed with costs, with one hearing fee (SCR p.729; PDF p.8).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: when a tax formula uses an accounting label, start with the formula's own exhaustive or inclusive words before importing presentation rules from company law. Preserve the distinction between an amount's identifiability, its balance-sheet location and compliance with a separate corporate-law account requirement. Later provisions using 'share capital', 'securities premium' or 'capital employed' need their own textual analysis (based on SCR pp.724-729; PDF pp.3-8).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 8-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 8-page count match catalogue asset 1969_3_722_729; every page was reviewed.

The source verifies Civil Appeals Nos. 701 and 702 of 1968, 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 turns on the express paid-up-capital definitions in the Finance Acts of 1956 and 1957 and the then company-law treatment of share premium. It does not state that premium forms part of every tax definition of share capital or capital employed. No comprehensive later-treatment or current-law 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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