

Commissioner of Income-tax (Central), Calcutta v. India Discount Co. Ltd.

Civil Appeal No. 2115 of 1968

[1970] 1 SCR 767 | 1969-08-07

Shares purchased with declared arrear dividends: contractual recovery of the purchased dividend right was capital/stock realisation, not the buyer's dividend or business income.

Indian Income-tax Act, 1922: sections 10, 12, 66(1) and 66A(2)

3-judge bench | J. C. Shah, Acting C.J. | V. Ramaswami, J. | A. N. Grover, J.

Assessment years: 1956-57

Declared and quantified arrears

The dividends had already been declared years earlier, their amount was certain, and the shares were expressly sold with those arrears. The decision should not be extended automatically to later-declared or uncertain dividends.

Registered-holder distinction

The arrears were legally income of the registered holders and reached the purchaser under the sale contract. The purchaser did not receive them by virtue of shareholder status for the declaration years.

Books did not control legal character

Crediting the amount to profit and loss and not adjusting the share-purchase account did not turn a non-income receipt into income. This does not make accounting treatment irrelevant under every current provision.

01 FACTS OF THE CASE

India Discount, a share and securities dealer, bought 11,900 Kedarnath Jute Manufacturing shares on 30 September 1954 for Rs. 1,12,575. The broker's letter stated that the shares were sold with arrear dividends already declared for 1936-45. During the year ending 30 September 1955, the assessee received Rs. 43,925. It credited the amount to profit-and-loss appropriation and then reserve, without adjusting the share-purchase account or stock value. The officer taxed it as business income. The AAC held it was not dividend because the assessee was not the registered shareholder when declared, but treated it as trade profit; the Tribunal agreed. The Calcutta High Court reframed the issue and held the receipt non-taxable. Revenue appealed for AY 1956-57.

Source: [SCR pp. 768-769 / PDF pp. 2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Dividends belong to the persons registered as shareholders when declared. A later purchaser normally receives only dividends declared after purchase, subject to the vendor holding post-sale shareholder rights for the purchaser until registration. Here the parties expressly contracted for already declared arrears whose amount was certain. The combined price therefore bought both the share scrips and the quantified dividend potential; the arrears reached the assessee through the vendors' contractual obligation, not as income from the assessee's shareholder right for the earlier declaration years. The purchased asset was stock-in-trade consisting of shares plus the arrear-dividend right. Realisation of that purchased component could not be taxed as dividend under section 12 or business profit under section 10 merely because the assessee dealt in shares. Nor could the assessee's erroneous profit-and-loss credit alter a receipt's legal character.

Source: [SCR pp. 769-771 / PDF pp. 3-5](#)

03 JUDICIAL DECISION

The Supreme Court held that the Rs. 43,925 represented realisation of a right purchased as part of the Rs. 1,12,575 consideration. It was not the assessee's taxable income either as section 10 profit or section 12 dividend. The Court affirmed the High Court and dismissed Revenue's appeal with costs.

Source: [SCR p. 771 / PDF p. 5](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee. The arrear-dividend amount was excluded from AY 1956-57 income under both theories advanced. The Court did not perform a revised stock valuation, allocate the combined purchase price numerically or decide taxation of future dividends declared after purchase.

Source: [SCR pp. 770-771 / PDF pp. 4-5](#)

05 AKHB REVIEW POINT

AKHB analysis: for a cum-dividend securities purchase, preserve the contract, declaration dates, record-holder identity, certainty of the dividend amount and evidence that the negotiated price included the arrears. Separate a purchased contractual receivable from dividend rights arising after acquisition. Reconcile the legal analysis with purchase-price allocation and books, but do not let an accounting label replace the statutory character inquiry. Current dividend, trading-stock and anti-avoidance provisions require fresh review.

Source: [AKHB analysis based on SCR pp. 768-771 / PDF pp. 2-5](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 5-page SCR report read; editorial headnote on PDF page 1 distinguished from the judicial opinion on PDF pages 2-5.

Open cited source rendition

All five source pages were read; exact PDF bytes, SHA-256 hash and page count match catalogue asset 1970_1_767_771.

The report verifies Civil Appeal No. 2115 of 1968, the three-judge bench and the opinion by V. Ramaswami J.

The report year is 1970 while the printed decision date is 7 August 1969.

The High Court and Supreme Court reframed the Tribunal's question to address whether the receipt was income at all rather than forcing a choice between sections 10 and 12.

No published case or disposition matches the exact date, parties, citation or source hash.

STATUTORY SCOPE

The case applies the Indian Income-tax Act, 1922 to a 1954 cum-arrear-dividend share purchase involving dividends declared in 1936-45. It does not certify current dividend taxation, dividend-stripping, cost allocation or securities-accounting treatment.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive later treatment and current statutory equivalence have not been verified; no current-law or citator clearance is represented.

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