

Western States Trading Co. Ltd. v. Commissioner of Income Tax, Central Calcutta

Civil Appeals Nos. 589 and 590 of 1967

[1971] 3 SCR 383 | 1971-01-18

Business loss and set-off: part-year colliery operation and dividends from trading stock.

Indian Income-tax Act, 1922: sections 6, 10(2)(vii), 12(1A), 24(2) and 66

3-judge bench | J. C. Shah, C.J. | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: 1956-57

Two distinct issues allowed

The Court allowed a balancing loss because the colliery operated during part of the year and allowed brought-forward business loss against dividends only because the shares were trading assets.

01 FACTS OF THE CASE

The company agreed on 29 November 1954 to sell its colliery, contractually allocating operations to the purchaser from 1 September, but in fact operated until the agreement. It claimed a written-off balancing loss on depreciable assets. It also received dividends from shares held as stock-in-trade and sought to set brought-forward business losses against that income. The Tribunal found part-year operation but treated the asset loss as arising from a closing-down sale; the High Court rejected both claims.

Source: [SCR pp. 383-386](#) / [PDF pp. 1-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The unchallenged factual finding established actual business operation until 29 November. Section 10(2)(vii) did not require operation or asset use for the whole year: the business operated, the machinery was used, the sale occurred in the year and the loss was written off. For section 24(2), dividend classification under a separate head did not change its business character when the shares were trading assets; income tax remained one tax despite computational heads.

Source: [SCR pp. 386-388](#) / [PDF pp. 4-6](#)

03 JUDICIAL DECISION

Both appeals were allowed with costs. The High Court's answers to questions 1 and 2 were set aside and answered for the assessee. The Court did not disturb the answers to the other referred questions.

Source: [SCR p. 388 / PDF p. 6](#)

04 OUTCOME / IN WHOSE FAVOUR

The assessee succeeded on the depreciable-asset loss and the set-off against dividends from stock-in-trade. The judgment did not allow set-off against every dividend regardless of the shares' business character.

Source: [SCR pp. 387-388 / PDF pp. 5-6](#)

05 AKHB REVIEW POINT

AKHB analysis: establish actual operating dates rather than relying only on a contract's retrospective allocation. For loss set-off, document whether securities were capital investments or trading stock and identify the source business. Re-test both issues under the applicable current provisions.

Source: [AKHB analysis based on SCR pp. 386-388 / PDF pp. 4-6](#)

SOURCE & VERIFICATION

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STATUTORY SCOPE

The ruling applies historical 1922 Act provisions to a part-year business, depreciable-asset sale and dividend income from shares held as stock-in-trade. Current depreciation, cessation and loss-set-off provisions require separate verification.

LATER TREATMENT

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