

Commissioner of Income-tax (Central), Calcutta v. Asiatic Textile Ltd.

Civil Appeal Nos. 1687-1688 of 1968

[1972] 1 SCR 81 | 1971-08-09

Capital loss as a business consideration for not declaring dividends under historical section 23A

Income-tax Act, 1922: section 23A(1)

Two-judge bench; judgment delivered by K. S. Hegde, J. | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: 1955-56, 1956-57

Repealed provision

The additional super-tax mechanism under section 23A belonged to the 1922 Act.

01 FACTS OF THE CASE

The assessee had assessable profits but did not declare dividends for two years because its shareholding in Elphinstone Mills had fallen by about Rs.12 lakh. The officer imposed additional super-tax on the undistributed surplus, while the appellate authorities and High Court accepted the directors' business judgment (SCR pp.81-84; PDF pp.1-4).

Source: [Primary judgment: facts and section 23A dispute](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 23A prevented tax avoidance but did not make the officer a super-director. Reasonableness had to be judged from a prudent businessman's perspective using the company's overall financial position. A real capital loss was relevant even though the shares were still held and might later recover (SCR pp.84-87; PDF pp.4-7).

Source: [Primary judgment: business-reasonableness test](#)

03 JUDICIAL DECISION

The Court upheld the view that non-declaration was reasonable and dismissed Revenue's appeals with costs.

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee-company under the historical section 23A regime.

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: where a tax rule reviews directors' distribution judgment, preserve contemporaneous evidence of capital impairment, liquidity, reserves and future needs. The Court's prudent-businessman approach is historically important, but the former section 23A mechanism should not be presented as current law.

Source: [Primary judgment: review-point basis](#)

SOURCE & VERIFICATION

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

Complete seven-page SCR report read in page-preserving text and every page image inspected.

[Open cited source rendition](#)

Exact catalogue hash and seven-page count verified; every page was read and inspected.

The report verifies both assessment years and the dismissal of Revenue's appeals.

STATUTORY SCOPE

The decision applies repealed section 23A of the 1922 Act. It is retained as historical guidance on the prudent-businessman standard.

LATER TREATMENT

Source checked 2026-10-12. No present-law equivalence or comprehensive later-treatment check is represented.

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