

Turner Morrison and Co. Ltd. v. Hungerford Investment Trust Ltd.

Civil Appeal No. 1223 of 1970

[1972] 3 SCR 711 | 1972-03-09

Tax reimbursement between companies: promissory estoppel, corporate powers, lien and limitation.

Indian Income-tax Act, 1922: sections 23A, 42 and 43 | Limitation Act, 1963: section 15(5) and Article 23

2-judge bench | K. S. Hegde, J. | K. K. Mathew, J.

Assessment years: 1939-40 to 1955-56 (underlying tax payments)

Private civil dispute; wider tax-liability issue left open

The Court did not decide the general primary-versus-secondary liability issue under pre-amendment section 23A. Its corporate presence discussion addressed limitation, not a general income-tax residence test.

01 FACTS OF THE CASE

Turner Morrison retained profits as working capital instead of distributing dividends and undertook to discharge tax arising for its shareholder Hungerford. After a change in control, it sued for reimbursement and interest and asserted a lien over Hungerford shares. Hungerford relied on the prior arrangements, estoppel and limitation. The trial court and appellate bench dismissed the suit.

Source: [SCR pp. 713-720](#) / [PDF pp. 3-10](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court upheld promissory estoppel: Hungerford had acted to its disadvantage on the undertaking while Turner Morrison benefited from retained funds. The undertaking was within the company powers on the memorandum and facts. The share lien had been waived. Earlier payments were outside Article 23 limitation, and the AY 1955-56 liability belonged to Turner Morrison under amended section 23A. Section 15(5) did not save the claim: Hungerford conducted relevant activities in India. The Court expressly left the general primary-versus-secondary liability controversy under the earlier section 23A undecided.

Source: [SCR pp. 719-730](#) / [PDF pp. 9-20](#)

03 JUDICIAL DECISION

The appeal was dismissed. The Secretary, Hormasji, was directed personally to bear both parties costs in the Supreme Court; the High Court costs order stood. The Court did not reject the suit merely for want of initial board sanction: the general power of attorney and later approval answered that objection.

Source: [SCR pp. 720 and 730 / PDF pp. 10 and 20](#)

04 OUTCOME / IN WHOSE FAVOUR

Hungerford succeeded against the private reimbursement claim. This is not a Revenue victory or a general ruling that all company tax payments are irrecoverable from shareholders. The disputed amount and broader historical tax-liability issue were not resolved.

Source: [SCR pp. 717-720 and 730 / PDF pp. 7-10 and 20](#)

05 AKHB REVIEW POINT

AKHB analysis: examine the memorandum, resolutions, indemnities, ledger treatment, reliance and payment dates before recognising or pursuing an inter-company reimbursement. Consider limitation separately from any lien. Do not turn the section 15(5) discussion into a universal corporate tax-residence test or extend the estoppel holding beyond its facts.

Source: [AKHB practical analysis based on SCR pp. 721-730 / PDF pp. 11-20](#)

SOURCE & VERIFICATION

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Twenty-page SCR report; judgment body begins on PDF page 3 and ends on page 20. This is a civil reimbursement suit involving historical tax payments, not an assessment appeal against the Revenue.

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STATUTORY SCOPE

Historical section 23A changed in 1955. Current tax, company-law and limitation applicability require separate statutory and later-treatment review.

LATER TREATMENT

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