

Mohan Singh Oberoi v. Commissioner of Income-tax, West Bengal

Civil Appeal Nos. 2492 and 2493 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 2 SCR 1057 | 1972-11-29

Dividends from shares proved to belong beneficially to the assessee were taxable to him despite registration in his wife's and sons' names; established ownership was presumed to continue absent a later divesting event.

1922 Act: 66(1) | 1922 Act: 16(2) and 18(5) (discussed through precedent)

3 Judges | K. S. Hegde | P. Jaganmohan Reddy | H. R. Khanna

01 FACTS OF THE CASE

For assessment years 1953-54 and 1954-55, the officer included in Mohan Singh Oberoi's income dividends of Rs 56,586 and Rs 39,542 from shares registered in his wife's and two sons' names. The assessment record stated that Oberoi had previously admitted those shares belonged to him and represented his investments. The Tribunal nevertheless excluded the dividends, relying on registered ownership and the absence of fresh evidence that he remained the owner. On a reference under section 66(1) of the Indian Income-tax Act, 1922, the Calcutta High Court rejected that approach. Oberoi appealed.

Source: [SCR 1058D-1060H](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court acknowledged that Revenue ordinarily must show that apparent ownership differs from real ownership. Here the admission, incorporated in the statement of the case and not rejected by the Tribunal, supplied ample material for the inference of benami holding. The Court distinguished Howrah Trading's registered-shareholder issue and applied Kishanchand Lunidasing Bajaj: company-law recognition of the registered holder did not prevent taxation of dividends in the real owner's hands. Once the assessee's ownership had been established, it was presumed to continue unless he showed a subsequent event divesting him. No such event was shown. A supported Tribunal finding about whether a purchase was benami would ordinarily be factual, but the Tribunal had made no such finding here.

Source: [SCR 1061C-1063C](#)

03 JUDICIAL DECISION

The Tribunal's exclusion of the dividends rested on legally untenable grounds. The Court sustained the High Court's negative answer to the reference question and refused an adjournment to bring in detailed Investigation Commission findings, disposing of the appeals on the existing record. It did not infer ownership merely from the family relationship or from registration in another person's name.

Source: [SCR 1061C-1063E](#)

04 OUTCOME / IN WHOSE FAVOUR

Both assessee appeals dismissed with costs; one hearing fee. The challenged dividend inclusions remained supported by the High Court's reference answer.

Source: [SCR 1063D-E](#)

05 AKHB REVIEW POINT

Separate proof of the original beneficial ownership from proof of a later transfer. Preserve admissions and any challenge to them in the appellate record. This is a 1922 Act income-attribution decision, not a ruling on modern benami prohibitions, family clubbing provisions or present dividend grossing-up rules.

Source: [SCR 1061D-1063C](#); [editorial distinction between original ownership, continued ownership and reference jurisdiction](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 2492 and 2493 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment / I.T. Reference No. 149 of 1963 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

7-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified.

Open cited source rendition

The reference question, dividend table and reasoning use Rs 39,542 for 1954-55; SCR 1060H prints Rs 39,452 when describing Tribunal relief. The note follows the question and reasoning, expressly retaining the variation here.

The second dividend table is headed "Net Dividend"; the note does not describe both disputed sums as gross dividends.

The Investigation Commission extract at SCR 1060C prints the impossible date 31-2-47. That quoted date is not adopted as a factual date in the note.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 66(1), 16(2) and 18(5) (discussed through precedent)

The operative holding is confined to the 1922 provision and applicable historical facts. Any 1961 provision mentioned by the judgment is identified separately; no unverified modern equivalence is asserted.

No direct 2025 counterpart for this particular holding is adopted. Similar wording or renumbering does not establish continued application.

qualified; present applicability is not certified

LATER TREATMENT

Source checked 2026-10-07. No later judicial-use passage is adopted for this note. That is a limit of this review, not a statement that later treatment does not exist.

Comprehensive subsequent history and present-law applicability are not certified.

AI DISCLOSURE

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