

COMMISSIONER OF INCOME-TAX, WEST BENGAL CALCUTTA v. CALCUTTA DISCOUNT CO., LTD.

Civil Appeal No. 495 of 1970 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 3 SCR 952 | 1973-04-10

On the accepted bona fide transaction between separate companies, market value alone could not create taxable profits that the seller had not actually made.

1922 Act: 66(1)

2-judge bench | K. S. Hegde, J. | H. R. Khanna, J.

01 FACTS OF THE CASE

For assessment year 1947-48 under the Indian Income-tax Act, 1922, Calcutta Discount transferred shares to a newly formed subsidiary in exchange for the subsidiary's shares. The officer substituted market values and assessed a deemed profit, although the transaction was accepted as genuine and no concealed profit was found. The Appellate Assistant Commissioner remitted the matter to identify any actual profit. The Tribunal summarily dismissed the Revenue's appeal for failing expressly to request that the order be set aside. A section 66(1) reference followed.

Source: [SCR953C-955C](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court criticised that procedural approach: sufficient substantive grounds do not require a prescribed verbal formula for relief. But the Appellate Assistant Commissioner's underlying approach was correct, making a procedural remittal pointless. Parent and subsidiary were separate legal entities, and neither sham dealings nor a higher actual receipt had been established. Following *A. Raman* and approving *Ramalinga Choodambikai Mills*, the Court held that potential earnings were not automatically accrued income. A genuine transfer below market value did not itself justify taxing the difference. *Sharkey v. Wernher* and *Dooar's Tea* were distinguished because they concerned goods withdrawn for the trader's own use, rather than sales between distinct traders.

Source: [SCR955D-958F](#)

03 JUDICIAL DECISION

The Court accepted the direction to ascertain actual profits and rejected a fictional addition based solely on market price. Although it disapproved the Tribunal's technical objection, it expressly declined to answer the third referred question because reversal and remittal would be futile. The first two questions were not pursued before it.

Source: [SCR953F-G,958F-G](#)

04 OUTCOME / IN WHOSE FAVOUR

The Revenue's appeal was dismissed, with no order as to costs. The Appellate Assistant Commissioner's remand to examine actual profits remained effective; no final quantified profit was substituted by the Court.

Source: [SCR958F-G](#)

05 AKHB REVIEW POINT

Use the case for its genuine-transaction and actual-profit reasoning, and identify the statutory basis for any proposed market-value substitution. Its broad tax-planning language is historically situated; it does not answer every later valuation, related-party or anti-avoidance rule. Also distinguish criticism of appellate procedure from the relief actually granted: this Court did not order the Tribunal to rehear the appeal. The checked section 28(i)/2025 section 26 comparison is confined to the business-income charge. Marghabhai Kishabhai Patel (1976) later applied the principle to genuine purchases from partners and a relative.

Source: [SCR955D-958G](#); [section28 opening and clause\(i\), web lines67-69](#); [adjacent compensation clauses not used](#); [section26\(1\),\(2\)\(a\), web lines2189-2194, reported physical55-56](#); [Title and section 1\(3\), physical1/web0-13](#); [section536\(1\),\(2\)\(a\)-\(c\), physical584-585/web24385-24399](#); [subsections\(3\)-\(4\), physical589/web24597-24601](#). No full-section536 reading claimed.; [Identity and paragraphs 1-20, web lines35-125 personally read](#). Calcutta Discount 1973 cited and applied in [paragraphs15-19, disposal paragraph20](#).

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 495 of 1970 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Income-Tax Reference No. 61 of 1966 — 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 1961 section 147(b) passage is quoted from A. Raman; it is not the operative reassessment provision in this 1947-48 appeal.

SCR954A prints a loss of Rs27,02,398, inconsistent with the two printed transaction figures. The note does not use those immaterial amounts or silently correct them.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 66(1), Section 147(b) of 1961 Act appears only in quoted A.Raman reasoning

The official 2024 (No. 1)-labelled section 28(i) charges business/profession profits and gains. This bounded charging-text comparison does not establish a rule overriding later specific valuation or anti-avoidance provisions.

Section 26(1)-(2)(a), Finance Act 2026 edition, charges business/profession profits and gains. The historical genuine-transaction or real-accrual analysis still requires the particular governing computation provisions.

The checked section 1(3) generally commences the 2025 Act on 1 April 2026. Section 536 preserves previous operation and accrued rights and keeps specified pre-commencement-year proceedings under the 1961 Act, subject to its savings. None of these comparisons retrospectively replaces the operative law of the judgment.

LATER TREATMENT

Source checked 2026-10-07. Marghabhai Kishabhai Patel & Co., Gujarat High Court, 16 February 1976, paragraphs 15-19, expressly uses the 1973 Calcutta Discount actual-price principle in the converse setting of purchases from partners and a relative. On the stated absence of sham, non-bona-fide or unrecorded-price findings, it rejected market/average-price substitution. That specific historical application does not override later statutory valuation or related-party controls.

Subsequent-history status remains unverified beyond any specific use recorded below.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961; Page labels 2024\(No.1\)](#)

Page labels 2024(No.1) section 28 opening and clause (i), web lines 67-69; adjacent compensation clauses not used. Selected web-extracted statutory passages personally read; no raw-PDF, rendered-page or full-enactment read claimed. The stated version and bounds control this comparison.

[Income-tax Act, 2025; FA 2026](#)

FA 2026 section 26(1),(2)(a), web lines 2189-2194, reported physical 55-56. Selected web-extracted statutory passages personally read; no raw-PDF, rendered-page or full-enactment read claimed. The stated version and bounds control this comparison.

[Income-tax Act, 2025, as amended by Finance Act 2026](#)

Title and section 1(3), physical 1/web 0-13; section 536(1),(2)(a)-(c), physical 584-585/web 24385-24399; subsections (3)-(4), physical 589/web 24597-24601. No full-section 536 reading claimed. Selected web-extracted statutory passages personally read; no raw-PDF, rendered-page or full-enactment read claimed. The stated version and bounds control this comparison.

[Marghabhai Kishabhai Patel & Co. v. Commissioner of Income-tax, Gujarat \(1976-02-16\)](#)

Identity and paragraphs 1-20, web lines 35-125 personally read. Calcutta Discount 1973 cited and applied in paragraphs 15-19, disposal paragraph 20. Nonofficial full judicial-text rendition personally read; no original PDF/image validation. Questionable reporter-header citation not adopted.

AI DISCLOSURE

AI-assisted research. The AKBH Review Point is editorial analysis, not part of the Court's judgment.

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