

Commissioner of Income Tax v. Shivakami Co. Pvt. Ltd.

Civil Appeal Nos. 1532-1535 (NT) of 1974 — Four certified Revenue appeals disposed of together, from Madras Tax Cases 79,83,98 and 99 of 1966; the detailed example is Rukmani Co. in Tax Case 83.

[1986] 1 SCR 881 | 1986-03-18

Under the first proviso to section 12B(2), undervalue and connected parties did not replace proof that the consideration actually received was understated.

Indian Income-tax Act, 1922 | 1922 Act: 12B(2), first proviso | 1922 Act: 34(1)(b) | 1922 Act: 66(1) | 1961 Act: 52 (comparison through K. P. Varghese, not operative assessment law)

2 Judges | R. S. Pathak | Sabyasachi Mukharji

01 FACTS OF THE CASE

The Revenue failed to establish concealed consideration in four connected share-sale assessments. The companies sold unquoted shares to connected persons at prices below break-up values. In the representative Rukmani case, shares costing Rs. 81,201 and Rs. 1,00,000 were sold for Rs. 60,000 and Rs. 75,000; the officer instead used break-up values to compute capital gains. After trading-profit treatment was removed, assessments for 1958-59 were reopened. The Tribunal sustained application of the first proviso to section 12B(2), but the Madras High Court answered the common reference question for the assesseees.

Source: [SCR 884-886; target report and identified opinion only.](#)

02 DISCUSSION BY THE HON'BLE COURT

Mukharji J applied K. P. Varghese's distinction between undervalue and understatement. A genuine sale at a low price, even between connected parties and with a desire to defeat Revenue recovery, did not by itself prove that the document concealed a higher receipt. The burden of proving that taxable condition remained on the Revenue. An inference was permissible only on supporting material; suspicion about motive could not supply the missing receipt. The Court also distinguished primary findings of fact from legal inferences drawn from them, which could be examined in a reference.

Source: [SCR 886-889; target report and identified opinion only.](#)

03 JUDICIAL DECISION

There was neither direct nor inferential evidence that the assesseees received more than they disclosed. The market-value mechanism in the historical proviso therefore could not be used. The High Court's favourable result stood, though on different grounds.

Source: [SCR 889-890; target report and identified opinion only.](#)

04 OUTCOME / IN WHOSE FAVOUR

All four Revenue appeals dismissed. The challenged market-value substitution failed in the connected assessments. No separate costs direction is printed.

Source: [SCR 890-890; target report and identified opinion only.](#)

05 AKHB REVIEW POINT

The useful distinction is evidential, within the provision construed. It cannot defeat a later provision expressly deeming fair market value to be consideration. Check the transaction date and governing valuation rule. The numerical example belongs to Rukmani's appeal; it should not be attributed indiscriminately to the lead-caption company.

Source: [SCR 887-890; target report and identified opinion only; Official 2019\(No.2\)-labelled section 50CA page, lines 63-68; distinct later share-valuation deeming provision, not part of the 1986 holding.](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: Tax Case No. 79 of 1966; Tax Case No. 83 of 1966; Tax Case No. 98 of 1966; Tax Case No. 99 of 1966

Relationship: Common Madras High Court judgment dated 7 March 1972 concerning Shivakami, Rukmani, Pudukottah Company and Pudukottah Corporation respectively.

SOURCE & VERIFICATION

Original reported Supreme Court judgment

10-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. All 10 physical text and image pages genuinely read. Entire PDF is the target report, including headnote and any separate opinion; cited/quoted cases are authorities, not additional primary targets. The caption uses Shivakami; the body also prints Sivakami. The headnote and closing reasoning refer to 12B(1), while the reference question, quoted proviso and substantial discussion identify 12B(2). The operative provision is displayed from that express quotation, with the printed variant disclosed. Whole source covers four appeals; frozen catalogue's single leading docket 1532 does not exhaust the group. No concealed receipt was found; the judgment does not approve tax-avoidance arrangements generally.

Open cited source rendition

The caption uses Shivakami; the body also prints Sivakami. The headnote and closing reasoning refer to 12B(1), while the reference question, quoted proviso and substantial discussion identify 12B(2). The operative provision is displayed from that express quotation, with the printed variant disclosed.

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STATUTORY SCOPE

Indian Income-tax Act, 1922; 12B(2), first proviso, 34(1)(b), 66(1), 52 (comparison through K. P. Varghese, not operative assessment law), Constitution of India, Article133(1)

The retained 2011 compilation records section 52's omission from 1 April 1988. The official section 50CA page, explicitly labelled 2019(No. 2), provides a distinct fair-market-value deeming rule for shares other than quoted shares and displays the later prescribed-exception proviso. The applicable version and rules need separate checking.

Section 79(1) expressly deems prescribed fair market value for qualifying below-value transfers of shares other than quoted shares; the old evidential rule is not universal.

Historical operative law is distinct from the cited later versions. Complete repeal/savings, tax-year applicability, unexamined rules and comprehensive subsequent judicial treatment remain unverified.

Other provisions addressed: Constitution of India, Article133(1)

LATER TREATMENT

Source checked 2026-10-08. No comprehensive subsequent judicial-history review was performed for this note; unchecked treatment must not be read as absence of later treatment.

Named authorities discussed within the judgment are antecedent authorities. The separately sourced legislative developments are statutory comparisons, not a later-judgment certification.

Primary holding and expressly identified bounded statutory readings only.

IDENTIFIED SOURCE LINKS

[Income-tax Act,1961: identified2011 compilation](#)

DOR-hosted Taxmann compilation as amended by Finance Act2011 The retained 2011 compilation records section 52's omission from 1 April 1988. The official section 50CA page, explicitly labelled 2019(No. 2), provides a distinct fair-market-value deeming rule for shares other than quoted shares and displays the later prescribed-exception proviso. The applicable version and rules need separate checking. Identified historical2011 compilation. Not a current consolidated statute, full-Act, image or complete transaction-applicability review. Text pages read: 42, 363.

[Income-tax Act,2025: bounded provisions](#)

Official compilation as amended by Finance Act2026 Lines6031-6037, physical page 146; section 79(1) only, not prescribed rules or all exceptions. Capture hashes identify exact returned text-output bytes, not the remotePDF. No full-Act, image, complete transition or comprehensive subsequent-history verification.

[50CA](#)

2019(No.2)-labelled section50CA page, lines58-68; printed prospective proviso retained. Only identified official-site text and version read; not a complete present-law or subsequent-judgment survey.

AI DISCLOSURE

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

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