

Commissioner of Income Tax, Bombay v. H. Holck Larsen

Civil Appeal Nos. 1954-1955 (NT) of 1974 / Special Leave Petition Nos. 8292-8293 of 1979

[1986] 2 SCR 1072 | 1986-05-08

Whether the Tribunal validly treated the assessee as a share dealer rather than an investor, and whether the High Court could correct that conclusion after accounting for the economic effect of rights issues and the full factual setting.

256 (historical reference jurisdiction expressly discussed)

Two-judge bench | R.S. Pathak, J. | Sabyasachi Mukharji, J.

Assessment years: 1959-60, 1960-61, 1968-69, 1969-70

Fact-sensitive mixed-period ruling; source discrepancies and separate costs orders

This ruling turns on the combined facts and the economic effect of rights issues, not a universal exemption for share sales. The source introduction says AYs 1957-58/1958-59, but its formal question and later account say 1959-60/1960-61; connected SLPs concern 1968-69/1969-70. The printed transaction table does not reconcile with the stated aggregate sales. Appeals were dismissed with costs; SLPs without a costs order. The issue is mixed law and fact, not purely law. Bounded later CBDT guidance is identified separately. Comprehensive later treatment, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

The assessee had been a partner in Larsen and Toubro before its conversion into a company in February 1946 and thereafter held a substantial equity investment. He also became chairman. The judicial account distinguishes shares received for his partnership interest, shares obtained for cash, subsequent rights subscriptions and later sales. It records increasing frequency and volume after financial year 1953-54, including disposals from original holdings and transactions in other companies (physical pages 7-8).

The Income-tax Officer and Appellate Assistant Commissioner treated the relevant dealings as trading. Both Tribunal members agreed. They relied on frequent acquisitions of rights shares at par, substantial successive sales, knowledge of the expanding company's position and the absence of a legal obligation to subscribe. They considered the asserted need to meet expenses and reduce borrowing unpersuasive, noting an unchallenged finding that income exceeded expenditure in some years (pages 9-11).

The assessee said he ordinarily acquired the company's rights shares rather than buying from strangers, with limited accommodation purchases from friends or staff. His explanations included containing a bank overdraft, meeting personal and tax outgoings, financing a Denmark house and preserving the value of his existing investment. The High Court held that he was an investor. The Supreme Court heard the Revenue's two certificate appeals and connected SLPs for AYs 1968-69 and 1969-70, in which the Tribunal had treated him as an investor in deference to that High Court judgment (pages 11-12, 23).

The formal reference concerns AYs 1959-60 and 1960-61, although an introductory paragraph inconsistently names 1957-58 and 1958-59. The note retains that discrepancy. The transaction table and its stated aggregate sales also do not reconcile on their face, so no independently corrected aggregate or profit computation is adopted (pages 7-8).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court separated the limits of factual review from the legal characterisation of the transaction. On a reference, primary findings of fact bind the High Court. Pure factual conclusions cannot be reopened merely because a court would weigh the evidence differently. Improper inclusion or exclusion of evidence, absence of legal evidence, an irrational conclusion or legal misdirection may justify intervention within the stated limits. A mixed question permits review of the legal principles applied to the accepted facts. The Court expressly linked historical section 66(1) of the 1922 Act with section 256 of the 1961 Act (pages 12-15).

Share-dealer versus investor status was a mixed question of law and fact. The Supreme Court therefore corrected the High Court's description of the issue as simply a question of law while ultimately affirming its result. Drawing on the authorities and the described indicators of trade, the Court required the total effect of the proved circumstances. Frequency, volume, an expectation of appreciation, intention on acquisition, the asset's nature and reasons for realisation were relevant without any single infallible formula. An investor's hope of selling at an enhanced value did not necessarily establish an adventure in trade (pages 16-22, 28).

The central failure was not that the Tribunal had omitted to mention the assessee's explanation. It had recorded and rejected it. Rather, it had not evaluated the rights issues and that explanation in their proper relationship. The right to acquire new shares was embedded in the old holding; an issue could reduce the value of the existing shares. Subscribing, selling some shares or renouncing rights could therefore protect the existing investment. The Court considered together his chairmanship, the potential market effect of failing to support the issue, the bank overdraft and the house remittance (pages 23-29).

On that combined factual setting, the conduct was that of a prudent investor. Merely listing the relevant circumstances was insufficient when their economic significance had not been properly evaluated. This was the error that justified interference with the Tribunal's inference; it was not a licence to substitute a preferred factual view whenever two views were possible. Earlier investor assessments were relevant background but were not made binding for every later year (pages 11, 21, 23, 28-29).

The discussion of investment realisation and historical authorities addresses the revenue-versus-capital distinction. It does not declare every capital receipt tax-free, settle a capital-gains computation or create a universal rule that rights-share acquisitions and sales can never be trading transactions.

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

The Court found no reason to disturb the High Court's conclusion that the assessee was an investor on the facts. Civil Appeal Nos. 1954-1955 (NT) of 1974 were dismissed with costs. In light of that conclusion, Special Leave Petition Nos. 8292-8293 of 1979 were also dismissed, but with no order as to costs for those applications. There was no remand (physical page 29 / SCR 1100 A-C).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeals dismissed with costs; connected SLPs dismissed with no order as to costs

Reasoned resolution of investor/dealer characterisation and limits of reference review; connected SLPs dismissed in light of that resolution

Fact-sensitive mixed-period holding. No blanket rights-share immunity, capital-gains exemption, current-law certification or finality of classification for all future years.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Build the classification from contemporaneous evidence of acquisition, financing, rights entitlements, dilution exposure and reasons for each material disposal. Test whether investment protection explains the actual transactions; a label in the accounts or a claimed need for cash is not conclusive. In a reference challenge, identify the legal misdirection or failure to evaluate a material circumstance rather than merely asking the court to rebalance the evidence.

Later administrative guidance must be checked separately. CBDT Circular 4/2007, paragraphs 6-7, expressly adopts this decision's mixed-question formulation; paragraphs 10-11 address separate portfolios and cumulative evaluation. Circular 6/2016, paragraphs 3-5, partly modifies the earlier guidance for listed shares/securities, including a consistency-conditioned treatment option for holdings exceeding twelve months, while preserving a genuineness exception and the relevant statutory provisions. Those are bounded checks, not this 1986 Court's holdings or verification of the complete later legal position. Apply the relevant year's enactments and guidance; no 2025 Act crosswalk is certified.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal grouping and conflicting introductory years

Source url: [Open cited source](#)

Pdf pages: 1; 6; 7

Paragraphs: SCR 1072 A-B; 1077 H; 1078 A-H

Source role: reported metadata and judicial text

2.

Topic: Acquisitions, transaction table and competing explanations

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: SCR 1079 A-H through 1082 D

Source role: judicial text

3.

Topic: Operative reference years, connected later years and prior assessments

Source url: [Open cited source](#)

Pdf pages: 7; 11; 12

Paragraphs: SCR 1078 F-G; 1082 D-H; 1083 A-B

Source role: judicial text

4.

Topic: Reference limits and mixed questions of law and fact

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14; 15

Paragraphs: SCR 1083 C-H through 1086 C

Source role: judicial text

5.

Topic: Trade indicators, intention and classification authorities

Source url: [Open cited source](#)

Pdf pages: 16; 17; 18; 19; 20; 21; 22

Paragraphs: SCR 1087 A-H through 1093 H

Source role: judicial text

6.

Topic: Rights issue economics and explanations evaluated

Source url: [Open cited source](#)

Pdf pages: 23; 24; 25; 26; 27; 28

Paragraphs: SCR 1094 A-H through 1099 H

Source role: judicial text

7.

Topic: Correction of High Court formulation and Tribunal error

Source url: [Open cited source](#)

Pdf pages: 28; 29

Paragraphs: SCR 1099 A-H; 1100 A-B

Source role: judicial text

8.

Topic: Separate appeal and special-leave costs orders

Source url: [Open cited source](#)

Pdf pages: 29

Paragraphs: SCR 1100 B-C

Source role: judicial text

9.

Topic: Bounded later administrative adoption

Source url: [Open cited source](#)

Paragraphs: 6-7 and 10-12

Source role: later administrative treatment

10.

Topic: Bounded later listed-security modification and limits

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: 3(a)-(c), 4 and 5

Source role: later administrative guidance

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Section 66(1), Indian Income-tax Act, 1922; Section 81, Companies Act, 1956

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sabyasachi Mukharji, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (express section 256 jurisdiction discussion and connected AY 1968-69/1969-70 proceedings); Indian Income-tax Act, 1922 (lead reference periods)

SPECIFIED LATER ADMINISTRATIVE MATERIALS AND THEIR SCOPE

1.

Kind: administrative treatment

Source url: [Open cited source](#)

Pinpoint: paragraphs 6-7

Finding: Expressly cites H. Holck Larsen for mixed law-and-fact characterisation.

2.

Kind: administrative guidance modification

Source url: [Open cited source](#)

Pinpoint: paragraphs 3-5, physical pages 1-2

Finding: Partially modifies earlier circular guidance for listed shares/securities, with specified consistency and genuineness limits; not a judicial reversal of H. Holck Larsen.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 29 PDF pages; SHA-256

d572a4020397817a7c405b97bc482755a6a69139a55965bb2d47bfd2f5ee1884. Original bytes preserved.

Unnumbered judicial body begins physical page 7 / SCR 1078 B with Sabyasachi Mukharji J. and ends physical page 29 / SCR 1100 C. Pages 1-6 contain editorial headnotes; formal appellate metadata straddles pages 6-7. Earlier authorities and quoted financial literature distinguished from the Court's own reasoning. No neighbouring judgment.

Open cited source rendition

The introductory AYs at SCR 1078 differ from the formal reference question and later account. Structured years follow the latter with the inconsistency expressly disclosed.; SCR 1079 states 37,366 shares sold, but the six printed sale-count rows sum to 46,866. The source does not explain the difference. Neither a repaired total nor a recomputed profit is adopted.; The editorial headnote calls the 1946 allotment rights shares under the Companies Act, 1956. The judicial body instead distinguishes original equity allotments from later rights issues; the headnote is not used to reconstruct that history.; The lead reference is historical and the connected SLPs expressly concern later AYs 1968-69 and 1969-70. Section 256 is expressly discussed, but numbered 1961 Act substantive charging sections are not supplied by the judgment and have not been invented.; The High Court result is affirmed while its pure-question-of-law description is corrected; costs differ between the appeals and SLPs.; The later circulars are administrative materials. Their full subsequent amendment, withdrawal and litigation history has not been checked.

The formal reference question at physical page 7 / SCR 1078 F-G and the later judicial account at page 11 / SCR 1082 D-E identify AYs 1959-60 and 1960-61. The introductory paragraph at page 7 instead says 1957-58 and 1958-59; this is an unresolved inconsistency in the source, not silently corrected. The connected SLPs expressly concern AYs 1968-69 and 1969-70 (page 11 / SCR 1082 F-H). Earlier AYs 1955-56 to 1958-59 are background treatment, not added as separate disposed appeals.

STATUTORY SCOPE

No automatic mapping to current legislation or the Income-tax Act, 2025; historical classification and reference-jurisdiction analysis only.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial treatment, review, appeal, stay and reversal status have not been verified. Bounded later CBDT circular checks identified below are administrative treatment, not a citator certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 29](#)

SHA-256: d572a4020397817a7c405b97bc482755a6a69139a55965bb2d47bfd2f5ee1884

[official administrative circular](#)

[official administrative circular - PDF pages: 2](#)

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