

Commissioner of Income Tax, Calcutta v. Karam Chand Thapar & Bros. (P) Ltd.

Civil Appeal No. 1119 (NT) of 1975

[1989] 1 SCR 638 | 1989-02-14

Share trading losses: factual findings, perversity and reference jurisdiction.

Income-tax Act, 1961: section 256 (reference jurisdiction) | Constitution: Article 136

2-judge bench | M. H. Kania, J. | L. M. Sharma, J.

Assessment years: 1959-60

Fact-specific finding; no blanket rule for group transactions

The Court upheld the Tribunal's factual evaluation. It did not hold all related-party share transfers genuine or all share losses deductible. The printed narrative varies between 2,500 and 25,000 Bharat Starch shares; no share quantity is adopted in this note.

01 FACTS OF THE CASE

For AY 1959-60 the assessee claimed losses on sales of Bharat Starch & Chemicals and Greaves Cotton shares to an allied group company. The Income-tax Officer questioned genuineness and the commercial purpose; the appellate authority upheld disallowance on capital/investment grounds. The Tribunal instead found business transactions and allowable trading losses after considering earlier treatment as a share dealer, prices, holding circumstances and group relationships. The High Court declined to direct reference of the additional questions sought by the Revenue; only two proposed questions were pressed before the Supreme Court.

Source: [SCR pp. 641-644](#) / [PDF pp. 4-7](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated the Tribunal as the final fact-finding body. Whether a loss is trading or capital, and genuine or bogus, primarily depends on facts; interference requires irrelevant material, omission of relevant material, or a conclusion no reasonable person could reach. Balance-sheet classification is relevant but not conclusive. Common group control may invite scrutiny without itself proving a sham. Read fairly as a whole, the Tribunal's judgment considered the relevant circumstances; it need not recite a formula stating that it considered their cumulative effect.

Source: [SCR pp. 643-646](#) / [PDF pp. 6-9](#)

03 JUDICIAL DECISION

The Revenue's appeal against refusal to require the additional references failed and was dismissed with costs. The Court found no basis to disturb the Tribunal's factual conclusions or to remand merely because its judgment did not expressly use the words cumulative effect or totality of circumstances.

Source: [SCR pp. 645-646 / PDF pp. 8-9](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee in the reference dispute: the Tribunal's allowance of the losses remained undisturbed. The result rested on this evidentiary record and absence of demonstrated perversity, not an unconditional rule validating group-company transfers.

Source: [SCR pp. 645-646 / PDF pp. 8-9](#)

05 AKHB REVIEW POINT

AKHB analysis: preserve contemporaneous evidence of acquisition purpose, actual transaction prices, holding period, accounts and earlier tax treatment. When challenging fact findings, identify the particular ignored evidence, irrelevant consideration or irrational inference. Mere disagreement with the conclusion, or the absence of stock phrases in the Tribunal's order, is insufficient.

Source: [AKHB analysis based on SCR pp. 643-646 / PDF pp. 6-9](#)

SOURCE & VERIFICATION

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STATUTORY SCOPE

Apply the historical statutory provisions and assessment years stated in this note. Present statutory applicability and any Income-tax Act, 2025 crosswalk have not been determined.

LATER TREATMENT

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