

Indian Tube Co. (P) Ltd. v. Commissioner of Income-tax, Calcutta

Civil Appeal No. 1254 (NT) of 1976

[1992] 1 SCR 22 | 1992-01-14

Historical surtax capital computation: dividend appropriation of Rs. 76 lakh was a provision; only the remaining Rs. 14 lakh qualified as reserve.

Companies (Profits) Surtax Act, 1964: sections 2(5), 2(8), 4 and 18; Second Schedule, rule 1 and its Explanation | Companies Act, 1956: section 217 and Schedule VI; Table A, regulation 87 | Income-tax Act, 1961: sections 256(1) and 261

2-judge bench | K. Ramaswamy, J. | B. P. Jeevan Reddy, J.

Assessment years: 1964-65

Historical surtax computation

The capital measurement date was 1 January 1963 and the assessment year was 1964-65. Apply the holding within that statutory and accounting setting.

01 FACTS OF THE CASE

For AY 1964-65 the company claimed Rs. 90 lakh transferred from its 1962 profits to a dividend reserve account as part of surtax capital measured at 1 January 1963. In May 1963 the directors recommended a dividend of Rs. 76 lakh and the shareholders approved it on 31 May. That amount was subsequently paid and adjusted out of the dividend reserve. Although the balance sheet showed no proposed dividend under provisions, the Tribunal treated only the Rs. 14 lakh residue as reserve. The High Court's decision was against the company, which appealed by certificate. The issue was whether the later appropriation of Rs. 76 lakh affected the reserve available at the statutory capital date.

Source: [SCR pp. 24-27](#) / [PDF pp. 3-6](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court examined rule 1 of the Second Schedule and its exclusion of specified liabilities and provisions, together with the Companies Act distinction between proposed reserves and recommended dividends. Classification depended on the real character and purpose of the appropriation, rather than the label attached to an account. Once the shareholders accepted the dividend recommendation and appropriated the sum, the dividend liability crystallised. In this statutory computation, the resolution concerning the previous year's profits related back to the relevant closing and opening dates. The Court drew on Metal Box, Mysore Electrical Industries and the reserve/provision analysis in Vazir Sultan Tobacco. A sum falling outside the definition of provision did not automatically become a reserve: its actual nature still required examination. Here Rs. 76 lakh was committed to the dividend, while the uncommitted Rs. 14 lakh residue was reserve.

Source: [SCR pp. 25-30 / PDF pp. 4-9](#)

03 JUDICIAL DECISION

The Supreme Court held that the 31 May 1963 appropriation related back for the surtax computation: Rs. 76 lakh was a provision as at 1 January 1963 and could not enter capital as reserve. Only Rs. 14 lakh qualified as reserve. The Court upheld the Tribunal and High Court and dismissed the company's appeal, directing the parties to bear their own costs.

Source: [SCR p. 30 / PDF p. 9](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue on the disputed Rs. 76 lakh exclusion. The dismissal did not eliminate the entire Rs. 90 lakh account from capital: the Rs. 14 lakh balance remained a reserve. There was no remand or separate costs award.

Source: [SCR pp. 28, 30 / PDF pp. 7, 9](#)

05 AKHB REVIEW POINT

AKHB analysis: for a historical surtax reserve dispute, reconcile the balance-sheet caption with directors' recommendations, shareholder resolutions, actual appropriations and the statutory capital date. Separate the committed dividend amount from the residual reserve instead of classifying the whole account by its name. The case supports analysis of the underlying purpose of a retained sum; it does not establish that every later dividend declaration must be backdated under present-day accounting or tax law. Check the applicable enactment and subsequent authorities independently.

Source: [AKHB analysis based on SCR pp. 26-30 / PDF pp. 5-9](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full 9-page SCR report read; editorial headnote on PDF pages 1-3 distinguished from the judicial text beginning on PDF page 3.

Open cited source rendition

The exact source bytes, SHA256 and nine-page count match catalogue asset 1992_1_22_30. All nine pages were read.

The report has no numbered judicial paragraphs; SCR and physical PDF page references are used.

SCR p. 25 describes the Tribunal's Rs. 14 lakh treatment as a provision, whereas the reasoning at p. 28 and the final order at p. 30 unequivocally identify Rs. 14 lakh as reserve. This note follows the operative conclusion. The director-meeting date is 1 May 1963 at p. 26, although p. 27 says 3 May; the material shareholder resolution is consistently dated 31 May 1963.

The reported SCR citation is verified from the source; an unverified retrospective INSC citation from catalogue metadata is not adopted.

STATUTORY SCOPE

This decision applies the historical Companies (Profits) Surtax Act capital-computation rules and the Companies Act, 1956 accounting provisions for AY 1964-65. Its relation-back treatment is not a statement of current dividend recognition or current tax computation rules.

LATER TREATMENT

Source checked 2026-10-10. Subsequent treatment and current statutory or accounting equivalence have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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