

The Andhra Bank Ltd., Hyderabad v. Commissioner of Income Tax, A.P. III, Hyderabad

Civil Appeals Nos. 4895-4896 of 1984 and Civil Appeal No. 861 of 1988

[1995] Supp. 4 SCR 41 | 1995-09-22

Banking-company surtax: the reserve-fund exclusion was limited to the amount required by section 17(1), not every larger transfer.

Companies (Profits) Surtax Act, 1964: section 2(5) and First Schedule, rule 1(xi)(a) | Banking Regulation Act, 1949: sections 17(1), 18 and 35A

3-judge bench | A. M. Ahmadi, C.J. | S. C. Sen, J. | K. S. Paripoornan, J.

Assessment years: 1971-72, 1972-73

Historical surtax provision

The Companies (Profits) Surtax Act framework considered here is historical. The judgment's 20% analysis and treatment of specific RBI letters must not be transferred to a current reserve, capital or tax computation without checking the applicable enactment and regulatory direction.

01 FACTS OF THE CASE

For AYs 1971-72 and 1972-73, corresponding to calendar years 1970 and 1971, Andhra Bank sought exclusion of Rs. 4,12,700 and Rs. 5,50,000 when computing chargeable profits under the Companies (Profits) Surtax Act. The bank had transferred more than 20% of its profits to the statutory reserve. It argued that the entire transfer qualified because RBI communications required the larger contribution and a direction under section 35A of the Banking Regulation Act would bind it. The Andhra Pradesh High Court had answered the referred question against the bank.

Source: [SCR pp. 43-45](#) / [PDF pp. 3-5](#) / [judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

Rule 1(xi)(a) limited the exclusion to the amount required to be transferred under section 17(1). The Court treated the then-required transfer as 20% of the disclosed profits before dividend; a voluntary excess, or an amount required under another provision, did not become an additional section 17(1) exclusion. Even assuming another legal obligation, the rule's words still tied the permitted quantum to section 17(1). The RBI Governor's letter of 27 December 1961 encouraged continuation of larger transfers but was not a section 35A direction. The 25 January 1962 circular advised how to compute the 20% base depending on whether reserves had reached paid-up capital. The bank-specific letters of 29 March 1971 and 23 May 1972 likewise addressed whether the base was profit before tax; they did not direct a percentage above section 17(1)'s requirement.

Source: [SCR pp. 44-47 / PDF pp. 4-7 / judgment](#)

03 JUDICIAL DECISION

The Court held that the High Court had correctly answered the referred question. Civil Appeals Nos. 4895-4896 of 1984 were dismissed without an order as to costs. Civil Appeal No. 861 of 1988 was also dismissed in view of the same judgment.

Source: [SCR p. 47 / PDF p. 7 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue prevailed finally. The bank could not enlarge the historical surtax exclusion beyond the amount required by section 17(1), and the Court additionally found that the cited RBI communications did not direct a larger percentage under section 35A.

Source: [SCR pp. 45-47 / PDF pp. 5-7 / judgment](#)

05 AKHB REVIEW POINT

AKHB analysis: identify both the legal source of a reserve transfer and the exact words of the tax adjustment. A binding regulatory obligation does not automatically enlarge a tax exclusion that is quantitatively tied to a different statutory provision. Preserve the difference between a minimum transfer percentage, the profit base to which it applies and any prudential excess. For present work, verify the current Banking Regulation Act text, the applicable RBI instrument and the governing tax regime; this historical surtax decision is not present-law clearance.

Source: [AKHB analysis based on SCR pp. 44-47 / PDF pp. 4-7](#)

SOURCE & VERIFICATION

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The judgment is unnumbered. Pinpoints therefore use SCR and physical PDF pages.

The common reasons decide Civil Appeals Nos. 4895-4896 of 1984; Civil Appeal No. 861 of 1988 is separately dismissed by application of those reasons on SCR page 47.

STATUTORY SCOPE

This decision construes the historical Companies (Profits) Surtax Act, 1964 and the then-text of section 17(1) of the Banking Regulation Act. It does not establish a current tax deduction or reserve-computation rule.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive subsequent treatment has not been verified; no current citator clearance is represented.

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