

Commissioner of Income Tax (Central-II), Calcutta v. M/s Duncan Brothers and Co. Ltd., Calcutta

Civil Appeal No. 595 of 1978

[1996] 2 SCR 492 | 1996-02-13

Tax provision is not a fund deductible from excluded investments in historical capital computation.

Super Profits Tax Act, 1963: Second Schedule, rule 1(ii) | Companies (Profits) Surtax Act, 1964: Second Schedule, rule 2(ii) | Income-tax Act, 1961: section 256(1) | Companies Act, 1956: Schedule VI

3-judge bench | J. S. Verma, J. | S. P. Bharucha, J. | Sujata V. Manohar, J.

Assessment years: 1963-64, 1964-65

Narrow capital-computation issue

The assessee did not appeal the High Court's finding that the tax provision was not a reserve. The Supreme Court addressed its alternative attempt to treat the provision as a fund reducing excluded investments.

01 FACTS OF THE CASE

Duncan Brothers provided Rs.16,48,888 for taxation for AY 1963-64 and Rs.17,52,920 for AY 1964-65. It sought either direct inclusion in capital as a reserve or deduction from the cost of excluded investments, thereby increasing the capital base for super-profits tax or surtax. The High Court rejected reserve status but allowed the alternative claim. Revenue appealed; the assessee did not challenge the adverse reserve ruling.

Source: [SCR pp.494-497](#) / [PDF pp.3-6](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court construed fund, surplus and reserve in their company-accounting context. Here there was no systematic accumulation of cash or separation of assets for future liabilities, only an entry earmarking an exact sum for the current accounting year's tax liability. That specific provision was not a fund under the rules. The 23 January 1968 Board circular concerning insurers' reserves for unexpired risks did not assist: money available for unexpected claims extending beyond the year differed from provision for an identified current-year tax liability.

Source: [SCR pp.497-502](#) / [PDF pp.6-11](#)

03 JUDICIAL DECISION

Question 2 for AY 1963-64 and the question for AY 1964-65 were answered in the affirmative, in favour of Revenue: the company was not entitled to deduct the tax provision from the cost of excluded investments. The appeal was allowed without an order as to costs.

Source: [SCR p.502 / PDF p.11](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue succeeded on the two disputed alternative-deduction questions. The earlier adverse conclusion on treating the provision itself as a reserve had not been appealed by the assessee.

Source: [SCR pp.496-497,502 / PDF pp.5-6,11](#)

05 AKHB REVIEW POINT

AKHB analysis: distinguish an accounting provision for a specific liability from assets or money constituting a qualifying fund. Trace the relevant statutory computation and evidence of asset earmarking instead of relying on a label. Before invoking a circular, compare its addressed industry, risk and accounting period with the taxpayer's actual facts; this decision does not resolve every conceivable fund arrangement.

Source: [AKHB analysis based on SCR pp.499-502 / PDF pp.8-11](#)

SOURCE & VERIFICATION

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

Full 11-page SCR report read, separating the editorial headnote from the judicial text.

[Open cited source rendition](#)

Full primary SCR report read; exact original bytes match the catalogue SHA-256. Judicial text is unnumbered, so SCR and PDF page pinpoints are used.

STATUTORY SCOPE

The ruling interprets capital-computation rules under the Super Profits Tax Act, 1963 and Companies (Profits) Surtax Act, 1964. Its accounting analysis is not a determination of current statutory deductibility.

LATER TREATMENT

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

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.