

Delhi Stock Exchange Association Ltd. v. Commissioner of Income Tax, New Delhi

Civil Appeal Nos. 3432–3438 (NT) and 5648–5650 of 1983

[1997] 3 SCR 130 | 1997-03-20

Whether the association qualified under section 11 read with section 2(15), for assessment periods before its December 1973 articles amendment, when it remained legally free to distribute its income to shareholders despite its public-utility activities and actual non-payment of dividends.

11 | 2(15)

Two-judge bench | S.C. Agrawal, J. | G.B. Pattanaik, J.

Assessment years: See the source-scope notes; no year inferred.

Pre-December-1973 constitution; no later-year exemption ruling

The individual assessment years are not enumerated: the judgment covers periods before the December 1973 articles amendment. Exemption failed because income could legally be distributed to shareholders; no actual dividend and stock-exchange recognition were insufficient. No post-amendment entitlement is decided. The headnote's 1958 Act year conflicts with the judicial 1956 citation, and no judgment author is named in the printed opening. Preserve these limits; later treatment, current-law applicability and 2025 mapping are not verified.

01 FACTS OF THE CASE

The assessee was a company limited by shares, incorporated in 1947 to take over the Delhi Stock & Share Exchange Limited and Delhi Stock and Share Brokers Association Limited. It conducted and regulated a stock exchange and received membership fees, property rent and interest on securities. Its section 11 claim failed before the Income-tax Officer, Appellate Assistant Commissioner, Tribunal and High Court. The Tribunal accepted general public utility and did not regard surplus alone as fatal, but found no binding requirement to use the income only for charity; the surplus could benefit shareholders, employees or their dependants (physical pages 3–4/SCR 132 E–133 H).

The appeals cover assessment years relating to periods before December 1973; the judgment does not enumerate the individual years. In December 1973 Article 103(xiv) was amended to prohibit distribution of profits as interest or dividends so long as the Central Government prohibited those distributions. The assessee relied on the absence of actual dividends, its activities viewed as a whole, stock-exchange recognition, and Central Government letters of 28 August 1963 and 1 March 1973 objecting to presents to members (physical pages 3 and 5–6/SCR 132 E; 134–135 A).

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

02 DISCUSSION BY THE HON'BLE COURT

The operative issue was the legal obligation attaching to income under the historical sections 11 and 2(15), not merely the public usefulness of the activity or the fact that no dividends had been declared. Drawing on *Surat Art Silk* and its adoption of the *Loka Shikshana* passage, the Court required an obligation to spend the money exclusively or essentially on charity. Before the December 1973 amendment, the association remained free to distribute all or part of its income as dividends. Actual abstention could not replace the missing legal restraint. The High Court was therefore right to deny the exemption (physical page 6/SCR 135 B–G).

Andhra Pradesh State Road Transport Corporation was distinguished on the facts described in that precedent: its capital was wholly provided by government, no shares under section 23(2) had been issued, and no dividend question therefore arose. Here shares had been issued and dividend payment was legally possible. The Court did not announce that every publicly owned or recognised body was automatically exempt (physical pages 6–8/SCR 135 G–137 A).

The Securities Contracts (Regulation) Act, 1956 made provision for recognition of a stock exchange but contained no provision imposing the necessary prohibition on distributing dividends to shareholders. The two Central Government letters were not legally compulsory restraints either. Recognition and advisory objections therefore did not cure the constitutive defect (physical page 8/SCR 137 A–D).

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

03 JUDICIAL DECISION

The assessee's appeals were dismissed as without merit, leaving the denial of section 11 exemption intact for the pre-December-1973 periods at issue. There was no order as to costs (physical page 8/SCR 137 D).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeals dismissed; no costs

Final denial of section 11 exemption for the pre-amendment periods considered

No determination of entitlement after the December 1973 articles amendment; no finding that all stock exchanges necessarily fail charitable status; no individual assessment-year list supplied by the judgment.

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

05 AKHB REVIEW POINT

Distinguish an organisation's charitable activity from the enforceable destination of its income. Obtain the actual memorandum and articles in force for each relevant year, especially distribution, member-benefit and winding-up clauses, and check whether supposed restrictions are binding rather than merely advisory. Actual non-payment of dividends does not supply a legal obligation that the instrument lacks.

Keep the judgment's historical scope visible. It decides periods before a specific articles amendment and does not certify that the amendment later secured exemption. Nor does it apply a modern quantitative receipts test. The relevant statutory version and any subsequent restrictions must be independently verified before extending its analysis to another year or organisation.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal numbers and judicial boundary

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover and unnumbered opening; SCR 130; 132 B–E

Source role: reported metadata and judicial text

2.

Topic: Pre-December-1973 scope, income and Tribunal reasoning

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered text; SCR 132 E–133 H

Source role: judicial text

3.

Topic: Articles amendment and advisory letters

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: Unnumbered text; SCR 134 A–H

Source role: judicial text

4.

Topic: Binding charitable destination versus dividend power

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Unnumbered text; SCR 135 B–G

Source role: judicial text

5.

Topic: Road Transport Corporation distinction

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered text; SCR 135 G–137 A

Source role: judicial text

6.

Topic: 1956 Act, letters and final dismissal

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: Unnumbered text; SCR 137 A–D

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Not separately named in the reported judicial opening

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 8 PDF pages; SHA-256

f08384e11cf807354109744b913d8c7c36bfad36ebc5ce74a885bc40ed7efbab. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–8/SCR 132 D–137 D. Editorial headnotes precede page 3 judicial boundary. Reasons concerning the pre-December-1973 constitution, dividend power, comparator and dismissal fully read.

[Open cited source rendition](#)

The judgment describes the years only as covering the period prior to December 1973. `assessment_years` is deliberately empty; exact years are not inferred from the appeal or reference numbers.; The body identifies the Securities Contracts (Regulation) Act as 1956 on pages 5 and 8; the headnote prints 1958 on pages 1–2. The note follows the judicial text. The defining provision is section 2(j), visually checked on page 8, not the OCR rendering 2G).; The judicial opening says The Judgment of the Court was delivered by but supplies no author name before the reasons. The named two-judge bench is retained, without assigning authorship from the machine index.; This is the 1997 decision under the 1961 Act, not the earlier Delhi Stock Exchange case reported at 41 ITR 495. The earlier decision appears only as described by the Tribunal and counsel in this record.; The report's description of the December 1973 amendment includes the Central Government condition. No later entitlement or exhaustive amendment text is independently verified.; The Court did not need to decide a modern profit threshold or reclassify every exchange activity. The dispositive defect was the absence of the required binding charitable destination under the governing constitution.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial and statutory treatment is not verified. Authorities cited in the judgment are described only as treated there unless a separately identified bounded comparison states otherwise. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 8](#)

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AI DISCLOSURE

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