

Kartikeya V. Sarabhai v. Commissioner of Income Tax

Civil Appeal No. 1098 of 1982

[1997] Supp 3 SCR 746 | 1997-09-04

Whether cash paid on a partial reduction of preference-share face value involves a transfer for capital-gains purposes even though the investor remains a shareholder.

2(47) (inclusive transfer definition, including partial extinguishment) | 45

Two-judge bench | B.N. Kirpal, J. | K.T. Thomas, J.

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

Partial transfer upheld; printed gain figures conflict

The 1966 second reduction, from Rs 500 to Rs 50 with Rs 450 paid per share, was a transfer despite continued shareholding; the appeal was dismissed with costs. The source prints Rs 23,490 in the history and Rs 28,710 in its conclusion, and states no assessment year. Do not silently reconcile the figures or extend the holding to all distributions, modern buy-backs or unconditional preference voting rights. Historical statutory scope is preserved; current law, 2025 mapping and subsequent treatment remain unverified.

01 FACTS OF THE CASE

The appellant bought 90 non-cumulative preference shares of Sarabhai Ltd., each with a face value of Rs 1,000, for Rs 420 each. A first reduction in 1965 reduced face value to Rs 500 and paid Rs 500 per share. This appeal concerns the second reduction: a special resolution on 10 January 1966 reduced face value from Rs 500 to Rs 50 and paid Rs 450 per share in cash (physical pages 3–4).

The ITO treated the second payment as giving rise to capital gains. The Appellate Assistant Commissioner reversed, the Tribunal restored the ITO's order and the Gujarat High Court answered the reference for Revenue. The appellant maintained that there was neither a sale nor extinguishment because he continued to hold shares. The report's appellate history gives Rs 23,490 as the gain, whereas its conclusion gives Rs 28,710; that unresolved inconsistency is not silently corrected (physical pages 4–5 and 9).

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

02 DISCUSSION BY THE HON'BLE COURT

Section 2(47) is inclusive: sale is not the only form of transfer, and relinquishment or extinguishment of rights may suffice. Continued shareholder status does not prevent a partial transfer. Reducing the face value from Rs 500 to Rs 50 proportionately reduced the preference shareholder's dividend entitlement and entitlement to capital on liquidation (physical pages 5–6).

The Court applied *Anarkali Sarabhai*, which involved full redemption, to this partial redemption of the shareholder's rights. Under the Companies Act, 1956 capital-reduction power, the company paid Rs 450 per share for the corresponding diminution. The voting value on a poll was also reduced where the preference shareholder was entitled to vote under section 87(2); the judgment's discussion of cumulative-share arrears is legal background, not a finding that these non-cumulative shares carried an unconditional vote on every resolution (physical pages 7–8).

R.M. Amin concerned distribution on voluntary liquidation in satisfaction of an existing shareholder right and was distinguished. That cited-case distinction does not decide all statutory consequences of liquidation distributions (physical page 9).

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

03 JUDICIAL DECISION

The High Court's conclusion that the second reduction produced a taxable capital gain was upheld, and the appeal was dismissed with costs. The final paragraph prints a gain of Rs 28,710, although the earlier history gives Rs 23,490. The Court's transfer ruling and dismissal are clear; the note does not reconcile those amounts or supply a new cost-allocation calculation (physical page 9, read with page 4).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee's appeal dismissed with costs; partial capital reduction held to involve a taxable transfer

Final merits ruling on the 1966 second reduction

The case determines transfer on a paid reduction of preference-share rights; it does not decide all corporate distributions, modern buy-back regimes, cost-allocation rules or a reduction without consideration.

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

05 AKHB REVIEW POINT

Analyse the rights before and after the transaction rather than asking only whether the investor still owns shares. A payment accompanied by a proportionate loss of dividend, capital and applicable voting rights can involve a transfer although the shareholding continues. Keep the first reduction and its separate payment out of the issue being decided.

This is a transfer-character authority, not a complete computation template. The report's two different capital-gain amounts make unsupported recomputation especially unsafe. Neither deemed-dividend priority and interaction, present-day redemption/buy-back taxation nor current Companies Act procedures are resolved by this note. The reproduced extended definition and historical voting provisions should not be transposed wholesale to a 1966 transaction or to current law. Anarkali supplies the full-redemption comparison; here the Court expressly applies it to a partial reduction.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and narrow second-reduction issue

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Share history, second cash payment and initial gain figure

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Inclusive transfer definition and reduced economic rights

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Application of Anarkali and conditional voting rights

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Liquidation distinction, conflicting final amount and costs

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: Unnumbered judicial text

Source role: judicial text

HISTORICAL STATUTORY BASIS

The operative question arises under sections 2(47) and 45 of the 1961 Act, on the 1966 reduction. The judgment reproduces an expanded section 2(47) text; the unrelated stock-in-trade and immovable-property clauses are not treated as the transaction-year basis or as retrospective holdings.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.N. Kirpal, J.

OTHER GOVERNING ACTS

1.

Act: Companies Act, 1956

Provisions: 100(1)(c); 87(2)(a)–(c)

Role: Historical capital-reduction power and preference-share voting rights

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

b1f8ca894655d683a19a5ae0410a9ade7930c2bc983d0f69256cca1d3df4e327. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–9/SCR 748–754, beginning KIRPAL, J. on page 3. The 1966 second reduction is distinguished from the 1965 first reduction; inconsistent assessed-gain figures preserved.

[Open cited source rendition](#)

The primary judicial text specifies the second capital reduction in 1966 but does not identify an assessment year. No year is inferred.

The appellate history at physical page 4/SCR 749 gives Rs 23,490 as capital gains; the operative paragraph at physical page 9/SCR 754 gives Rs 28,710. Both amounts are visibly printed. Neither is certified as the corrected computation.; The judicial text identifies a 1966 second reduction, but no assessment year. The earlier 1965 reduction is background and is not separately decided.; The judgment reproduces additional section 2(47) limbs and an exemption list that should not be assumed to be the complete statutory version applicable to the 1966 transaction. The ratio concerns relinquishment/extinguishment of preference-share rights.; The shares were non-cumulative. The cumulative-share voting example on page 8 is not an additional fact about the appellant's holding; the poll-right analysis is conditional on a right to vote.; The editorial headnote calls the earlier case Anarkali Sarabhai Ltd.; the judicial discussion concerns the individual's full-redemption case. It is not a company-party finding.; Current distribution, liquidation, redemption and buy-back tax provisions, statutory crosswalks and comprehensive later treatment were not verified.

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. No subsequent-treatment search was completed for this judgment. Its express reliance on the earlier Supreme Court decision in Anarkali Sarabhai is part of the fully read primary text, not a claim that later law has been checked.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 9](#)

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