

M/s Hunsur Plywood Works Ltd. v. The Commissioner of Income Tax

Civil Appeal Nos. 140–142 of 1988

[1997] Supp 5 SCR 285 | 1997-11-19

Whether capitalising a development-rebate reserve through bonus shares amounted to distribution of dividends or profits, permitting withdrawal of the previously allowed rebate.

33 | 34(3)(a)(i) | 155(5)(ii)(a) | 154

Two-judge bench | Suhas C. Sen, J. | V.N. Khare, J.

Assessment years: 1972-73, 1973-74, 1974-75

Retained company capital; historical rebate and defective quotation

Three appeals succeeded without costs because the bonus issue retained the reserve in company share capital. This does not cover cash dividends, withdrawable partners' accounts or every shareholder-tax consequence. The source's section 155 quotation is defective and is flagged, not adopted. Historical rebate conditions and discontinuance/transitional limits must be checked; comprehensive later treatment and current-law mapping remain unverified.

01 FACTS OF THE CASE

The public limited company obtained development rebate for AYs 1972-73, 1973-74 and 1974-75. The assessing authority later noticed transfers from the development-rebate reserve to the share-capitalisation account for bonus shares. Treating this as distribution of profits under section 155(5)(ii)(a), it passed a section 154 order withdrawing the rebate. The first appellate authority and Tribunal restored the allowance, but the Karnataka High Court answered the two reference questions for Revenue (physical pages 3–4).

The relevant section 34(3)(a) condition required a reserve equal to 75% of the rebate actually allowed and its business use during the ensuing eight-year period, excluding distribution by dividends or profits. No dividend payment from the reserve was alleged; the dispute was whether the bonus-share capitalisation itself constituted prohibited distribution (physical pages 4–5).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished a shareholder's benefit from an actual distribution of the company's reserve. By transferring reserve amounts to share capital, the company retained the entire amount. Shareholders obtained additional certificates and future participation in capital, but no right to withdraw the retained money. The English authorities and Dalmia Investment supported this understanding of capitalisation; the discussion of the reduced value of original shares explained the transaction, rather than prescribing a separate tax-cost formula (physical pages 5–9).

Leader Engineering Works involved a partnership reserve transferred to individual partners' capital accounts, from which they could withdraw money. That was materially different from non-withdrawable company share capital. The Court applied the language of the specific statutory restriction and found no distribution in either form or substance on these facts (physical pages 9–10).

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

03 JUDICIAL DECISION

All three company appeals were allowed, the High Court judgment was set aside and the withdrawal based on the bonus issue could not stand. There was no order as to costs. The Court did not determine a new numerical rebate computation or any shareholder capital-gains liability (physical page 10).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Three appeals allowed; High Court judgment set aside; no order as to costs

Final rejection of rebate withdrawal on the asserted bonus-share distribution ground

A company's retained share capital differs from cash dividends or withdrawable partners' capital. No universal tax exemption for bonus shares or independent approval of every reserve use.

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

05 AKHB REVIEW POINT

Trace where the reserve went and whether assets or withdrawal rights actually passed to shareholders. A capital-account label is insufficient: this judgment turns on company funds remaining in the company and the precise dividends-or-profits prohibition. Preserve the distinction from partnership accounts made available for partners' personal withdrawal.

The Department-hosted 2011 compilation, page 231, editorial footnote 96, records discontinuance for post-31 May 1974 acquisitions/installations with limited transitional exceptions. This is a historical development-rebate decision, not a current incentive-rate ruling. The judgment's section 155 quotation on physical page 5 is malformed: it associates section 33 directly with the 1922 Act. The independently checked compilation, pages 739–740, distinguishes section 33 from the corresponding 1922 Act provisions. The actual dispute is plainly under the 1961 Act; the misquotation is not silently rewritten as authentic statutory text.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, three appeals, years and reference questions

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Historic reserve condition and defective statutory quotation

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Capitalisation, retained assets and partnership distinction

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Operative allowance and costs

Source url: [Open cited source](#)

Pdf pages: 10

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Historical discontinuance caution

Source url: [Open cited source](#)

Pdf pages: 231

Paragraphs: Section 33(5); editorial footnote 96

Source role: bounded statutory compilation and editorial note

6.

Topic: Section 155 comparison identifying report misquotation

Source url: [Open cited source](#)

Pdf pages: 739; 740

Paragraphs: Section 155(5)

Source role: bounded statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Suhas C. Sen, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SCOPE OF THE INCOME-TAX ACT ISSUE

Substantive 1961 act: True

Not 1922 only: True

Basis: The present questions and relief concern the expressly identified 1961 Act provisions; references to the 1922 Act are historical statutory/precedent discussion, not the sole basis of this note.

SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256

4ecfa04d58d21b0f17e6d3e94e163998e7c2e2471540ea2511e6b9fddfb94f7d. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–10/SCR 287–294. Pages 1–3 include editorial material; three appeals, no adjacent judgment.

[Open cited source rendition](#)

The source's jurisdiction block lists Civil Appeals 140–142/1988; a singular footer does not reduce the three appeals to one.; Physical page 5 prints a defective section 155(5) opening; the note flags it and identifies the bounded statutory comparison rather than reproducing it as reliable verbatim law.; The closing discussion prints "destitution of profits"; context and the operative reasoning concern distribution of profits.; The discussion of original/bonus-share value is explanatory. It does not establish a present-day cost-of-acquisition or shareholder tax rule.; The 75% reserve and eight-year period belong to the historical statutory conditions before the Court.

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 treatment has not been verified. Only the expressly identified bounded historical statutory-compilation comparison was checked. No automatic current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 10](#)

SHA-256: 4ecfa04d58d21b0f17e6d3e94e163998e7c2e2471540ea2511e6b9fddfb94f7d

[bounded historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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.