

The Commissioner of Income-Tax, Madras v. Urmila Ramesh

Civil Appeal No. 2141 of 1982 / Civil Appeal No. 2142 of 1982 / Civil Appeal No. 2143 of 1982

[1998] 1 SCR 323 | 1998-01-23

Whether the amount assessed as a section 41(2) balancing charge on assets sold above written-down value but below original cost was accumulated profit for taxing liquidation distributions under section 2(22)(c).

2(22)(c) | 32(1)(iii) | 41(2) | 50 (new argument not permitted; alternative observation) | 261

Three-judge bench | S.C. Agrawal, J. | B.N. Kirpal, J. | S. Rajendra Babu, J.

Assessment years: 1970-71, 1971-72, 1972-73

Below-cost balancing charge was not distributable accumulated profit

The assets fetched more than written-down value but less than original cost. Taxing that return of capital under historical section 41(2) did not make it accumulated profit for section 2(22)(c). All three Revenue appeals were dismissed with unquantified costs. The new section 50 argument was barred, with an alternative same-amount observation; do not generalise it to later regimes. Printed section-reference slips are flagged. Only the identified Narshimhan and 2011 statutory checks were made; comprehensive later treatment and present-law mapping remain unverified.

01 FACTS OF THE CASE

The respondent shareholders held shares in Tinnevely Motor Service Company Private Limited, which went into voluntary liquidation on 28 March 1970 following takeover of its road-transport business by the then State of Madras. After asset sales, the liquidator distributed Rs 100 per share on 31 March 1970, Rs 40 on 17 April 1970 and Rs 25 on 20 October 1971. The assessments concerned 1970-71, 1971-72 and 1972-73 (physical page 5/SCR 327).

The officer computed accumulated profits at Rs 6,61,065 by including Rs 7,28,760 earlier assessed under section 41(2), then treated portions of the distributions as deemed dividends. The shareholders contended that the assets had fetched less than purchase price and the balancing charge was not commercial profit. The appellate authorities and High Court agreed. After a two-judge reference expressed doubt about the different wording of the 1922 and 1961 provisions, these three Revenue appeals were decided by a three-judge bench (physical pages 5-7/SCR 327-329).

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

02 DISCUSSION BY THE HON'BLE COURT

Despite omitting the word deemed, the historical section 41(2) created a fiction: a capital receipt above written-down value, within the statutory cap, was treated as business income of the year when the money became due. The Court relied on *Cambay Electric* and rejected the suggestion that its section 41(2) discussion had merely been incidental. The different wording from section 10(2)(vii) of the 1922 Act did not eliminate the fiction (physical pages 7–13/SCR 329–335).

For section 2(22), accumulated profits meant profits capable of accumulation, capitalisation and distribution. A return of the company's own invested capital did not become such profit merely because the depreciation-recapture mechanism taxed it. The sale price here was below original cost, so the excess over written-down value did not establish actual commercial profit. *Bipinchandra Maganlal, Gangadhar Banerjee and P.K. Badiani* supported that distinction; *Bishop and Express Newspapers* did not decide this issue on comparable facts (physical pages 14–17/SCR 336–339).

The balancing charge and balancing allowance were explained as parts of the statutory depreciation scheme. Revenue's new section 50 argument was not permitted because it had not been raised below and fell outside the referred questions. The Court added that the same amount already assessed under section 41(2) could not also be capital gain under section 50. That alternative observation remains tied to this historical amount and the argument the Court declined to entertain (physical pages 17–18/SCR 339–340).

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

03 JUDICIAL DECISION

The amount taxed under section 41(2) did not constitute accumulated profits for section 2(22). The High Court's affirmative answers in favour of the shareholders were upheld, and all three Revenue appeals, Civil Appeal Nos. 2141–2143 of 1982, were dismissed with costs. The costs are not quantified, and the judgment supplies no separate final assessment computation for each shareholder (physical pages 4 and 19).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Respondent shareholders/assesseees

All three Revenue appeals dismissed with costs; High Court answers sustained

Final on exclusion of the identified below-original-cost balancing charge from accumulated profits

Does not exempt every liquidation distribution, decide a sale above original cost, or certify tax consequences under later depreciation/capital-gains regimes.

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

05 AKHB REVIEW POINT

Separate the company's tax-computation fiction from the real profits available for distribution. Obtain original cost, written-down value and actual realisation before deciding whether an amount represents returned capital or accumulated profit; the mere existence of a section 41(2) assessment is not enough for the latter on these facts. The new section 50 submission and the Court's alternative observation should not become a free-standing rule for later statutory regimes.

Bounded later checks: G. Narshimhan, decided 14 December 1998, expressly used this accumulated-profits/capital-return distinction when allocating a capital-reduction distribution (its physical page 8/SCR 539). Separately, the Department-hosted 2011 compilation's section 41(2) and footnote 68 record that the earlier provision was omitted from 1 April 1988 and a differently framed provision, expressly linked to section 32(1)(i), was inserted with effect from 1 April 1998. These limited checks do not verify comprehensive later treatment or present-law applicability (compilation physical page 306).

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Cover identity, connected appeals, judicial author and actual liquidation facts

Source url: [Open cited source](#)

Pdf pages: 1; 4; 5

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Referred questions, rival submissions and larger-bench reference

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Historical statutory quotations and section 41(2) fiction

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10; 11; 12; 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Accumulated profits, capital return and prior authorities

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16; 17

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Depreciation scheme, rejected new section 50 argument and alternative observation

Source url: [Open cited source](#)

Pdf pages: 17; 18

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: All appeals dismissed with costs

Source url: [Open cited source](#)

Pdf pages: 19

Paragraphs: Unnumbered judicial text

Source role: judicial text

7.

Topic: Bounded later use of Urmila Ramesh in G. Narshimhan

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: Unnumbered judicial text

Source role: later primary judgment

8.

Topic: Historical section 41(2) and omission/insertion footnote 68

Source url: [Open cited source](#)

Pdf pages: 306

Paragraphs: Bounded historical statutory text and identified footnotes; not judicial paragraphs

Source role: historical statutory compilation

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.N. Kirpal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 19 PDF pages; SHA-256

9e0b0950a26599bc2bbb89779422221c00e07a5d2a8751c3b1749a6bae441c6d. Original bytes preserved.

Complete unnumbered judicial text from physical page 5/SCR 327, Kirpal J. introducing the appeals, through physical page 19/SCR 341, dismissal of all three appeals with costs. Physical pages 1–4 are editorial headnote and case metadata, not independent holdings.

Open cited source rendition

The cover and judicial opening establish a three-judge bench and B.N. Kirpal as judgment author. Machine-ingested lead-judge metadata is not adopted as authorship.; The connected appeal range is 2141–2143 of 1982; all three appeals were dismissed with costs, although the ingestion lists only the lead appeal.; Physical pages 6–7 print section 22(2)(c) in the respondents' submissions while the referred issue and holding concern section 2(22)(c). Physical page 11 also prints sub-clause (e) in the liquidation portion of Explanation 2. These source slips are not adopted as authoritative statutory text.; Physical page 17 loosely describes balancing charge under section 32(1)(iii), while the surrounding statutory quotation and explanation distinguish the section 41(2) charge from the section 32(1)(iii) balancing allowance. The note preserves that legal distinction instead of reproducing the slip.; The assessed Rs 6,61,065 accumulated-profits figure and Rs 7,28,760 balancing-charge component are different figures serving different roles, not interchangeable total receipts. The source's distribution percentages are not used to reconstruct unknown shareholder-level assessments.; The Court barred the new section 50 contention and then gave an alternative same-amount observation. Neither the headnote's summary nor that alternative observation should be treated as a universal statement of later capital-gains law.; The 1998 Narshimhan comparison and 2011 statutory compilation check are the only later-primary/historical checks represented as verified here.

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 has not been verified. Only the expressly identified bounded comparisons have been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 19

SHA-256: 9e0b0950a26599bc2bbb89779422221c00e07a5d2a8751c3b1749a6bae441c6d

official department hosted historical statutory compilation - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

later primary judgment bounded comparison - PDF pages: 9

SHA-256: 46b817f0b8810e2bad5b9705b1b8d0c868762ccc72e44e12b3c922d757131a2f

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