

Hungerford Investment Trust Ltd. v. Income Tax Officers and Others

Civil Appeal No. 474 of 1984 / Civil Appeal No. 475 of 1984 / Civil Appeal No. 476 of 1984
[1998] 1 SCR 905 | 1998-02-17

Hungerford was not a stranger to proceedings assessing its own deemed-dividend income through its Indian agent. The appellate directions to assess it directly were valid, and the second proviso to section 34(3) of the 1922 Act removed the limitation bar. All three appeals were dismissed with costs.

2-judge bench | Sujata V. Manohar, J. | D.P. Wadhwa, J.

Same income and representative connection

The historical limitation exception was applied to Hungerford's own income assessed through its agent; the three notices used different provisions, and the case does not dispense with later statutory safeguards.

Operative context: Indian Income-tax Act, 1922; historical sections 23A (before 1955 amendment), 23(2), 31, 34(3), second proviso, 42, 43.

01 FACTS OF THE CASE

Hungerford, a Singapore non-resident company, owned all the shares of Turner Morrison, an Indian company. Orders under the pre-1955 section 23A deemed Turner Morrison's undistributed assessable income to be dividends received by Hungerford for three years. Initial proceedings and returns identified Hungerford's income, but assessments were made on Turner Morrison as its agent.

On the agent's appeals, the Appellate Assistant Commissioner directed direct assessment of Hungerford. For AY 1949-50 proceedings were to restart from notice; for AYs 1950-51 and 1951-52 the already-filed returns supported fresh assessment after an opportunity under section 23(2). Notices dated 26 October 1961 followed: section 34 for the first year and section 23(2) for the other two. Hungerford challenged the directions and notices as proceedings against a stranger after limitation. The Calcutta High Court rejected its writ petition and appeal.

Source: [SCR 908 C-H](#); [SCR 909](#); [SCR 910 C-G](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read the limitation exception with the appellate authority's statutory power and the subject matter of the original assessment. Earlier constitutional authority prevented the phrase "any person" from exposing total strangers to unlimited reassessment. Muralidhar Bhagwan Das, however, explained that the phrase includes a person intimately connected with the assessment of the income for the year under appeal. Firm-partner, family-member and association-member examples were illustrative, not an exhaustive list.

Here section 42 permitted the non-resident's income to be assessed either directly or through its agent. The income under examination throughout was Hungerford's own deemed dividend. Notices for two years had gone directly to Hungerford and its returns had been filed; for the remaining year the agent's return likewise identified the non-resident and its income. Thus the connection arose from the particular assessment and representative relationship, not merely share ownership.

The Court also rejected the argument that section 31(4) restricted "any person" to its named categories. A proper section 31 direction could reach another person intimately connected in the required sense. The factual inquiry into that connection remained essential.

Source: [SCR 913 E-H](#); [SCR 914 A-D](#); [SCR 916 A-H](#); [SCR 917 A-G](#)

03 JUDICIAL DECISION

The appellate directions of 29 November 1960 were properly given under section 31. The subsequent notices were covered by the second proviso to section 34(3) and could not be struck down as time-barred notices to strangers. The Supreme Court upheld dismissal of the writ challenge.

Source: [SCR 917 H](#); [SCR 918 A-B](#)

04 OUTCOME / IN WHOSE FAVOUR

Civil Appeal Nos. 474-476 of 1984 dismissed with costs. Result: Revenue. Costs: Costs awarded on dismissal. Scope: Validity of appellate directions and consequent notices decided; no fresh computation of dividend income or tax by this judgment. Limit: The ruling applies the historical limitation exception to the same non-resident income already assessed through its agent; it does not remove limitation for unrelated persons or income.

Source: [SCR 917 H](#); [SCR 918 A-B](#)

05 AKHB REVIEW POINT

Trace the precise income, year, representative capacity, notices and returns through the original and proposed assessments. A corporate or family relationship alone does not establish the necessary connection. Identify the direction the appellate authority was empowered to give and its link to the appeal's subject matter. In later-law cases, separately verify the governing limitation provisions and hearing safeguards rather than treating this 1922 Act exception as an unrestricted reopening power.

Source: [SCR 916](#); [SCR 917 B-C](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

14-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

The note follows the judicial account at SCR 910 for the 1961 notices and does not describe all three as section 34 notices. The common judgment does not allocate a particular assessment year to each numbered appeal.

STATUTORY SCOPE

Indian Income-tax Act, 1922; historical sections 23A (before 1955 amendment), 23(2), 31, 34(3), second proviso, 42, 43.

Separately identified 1961 Act provisions and their limited roles: Section 150: Later findings-and-directions comparison in Dinar Tarcar; not adjudicated by Hungerford.; Section 153, Explanation 3 (version considered in Dinar Tarcar): Later hearing safeguard discussed in the separately verified 2022 decision; no current-version mapping claimed..

Current statutory equivalence and Income-tax Act, 2025 applicability have not been verified. No automatic carry-over of this precedent is claimed.

LATER TREATMENT

Source checked 2026-10-06. Dinar Tarcar v. ACIT, W.P. Nos. 500 of 2014 and 72 of 2015 (Bombay High Court, 4 April 2022), paragraphs 39–42, distinguished Hungerford when shareholders had not been heard in a company's appeal. It stressed Hungerford's actual agency relationship. Paragraphs 21–23 examine the then-applicable section 150 and Explanation 3 to section 153. This verifies a specific later limitation on use, not comprehensive history or the current statutory text.

IDENTIFIED SOURCE LINKS

Dinar Tarcar v. ACIT (2022-04-04), nonofficial judicial-text reproduction

Paragraphs 21–23 and 39–42. Public HTML judicial-text rendition; no raw PDF hash or physical-image read claimed.

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