

Delhi Farming and Construction (P) Ltd. v. Commissioner of Income Tax, Delhi

Civil Appeal Nos. 7525–7527 of 2001

[2003] 3 SCR 35 | 2003-03-26

Whether exempt compensation for a pre-March 1970 agricultural-land acquisition could enter historical section 104 distributable income, and whether declining to distribute it was unreasonable.

2(24)(vi) | 2(45) | 45 | 47(viii) (historical) | 104 (historical) | 109 (historical) | 256(1)

Two-judge bench | Ruma Pal, J. | B.N. Srikrishna, J.

Assessment years: 1974-75, 1975-76, 1976-77

Former section 104 regime; dates, arithmetic and wording require care

The company won on the pre-March 1970 agricultural-land exemption and its reasonable decision to retain funds. This is not a universal capital-gain or compensation exemption. Sections 104–109 were later omitted from 1 April 1988 in the checked historical compilation. The source's accounting dates, dividend arithmetic and second-prerequisite wording are inconsistent; the statutory exception and clear final result control. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

Agricultural land belonging to the company was compulsorily acquired in 1962. After litigation, compensation and interest became payable, and the company transferred the stated capital-gain amount to a capital reserve. Its directors considered the earlier accumulated losses and loss of the only business asset reasons not to distribute the proceeds as dividends. The AO instead treated the reserve as available for distribution and imposed the historical additional tax (physical pages 4–6).

The Tribunal granted relief, but the High Court answered the references against the company. The common Supreme Court judgment addressed three appeals for AYs 1974-75, 1975-76 and 1976-77. The source supplies detailed figures only for the first two and contains inconsistent accounting-period recitals.

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

02 DISCUSSION BY THE HON'BLE COURT

Section 47(viii) excluded a transfer of agricultural land in India effected before 1 March 1970 from section 45. The compensation attributable to the 1962 acquisition therefore did not enter the relevant gross total income or distributable-income base under sections 104 and 109. The High Court's reliance on capital-gains authorities had missed that particular statutory exemption (physical pages 8–10).

The Court did not adopt a universal rule that capital gains are always, or never, commercial profits available for dividends. That question depends on the facts and commercial decision. Independently, the historical provision required proper regard to past losses, small profits and the company's overall business position. The AO could not simply replace a reasonable directors' decision with his own. Given the losses and loss of the sole asset, retaining the compensation in reserve was not unreasonable (physical pages 10–13).

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

03 JUDICIAL DECISION

All three appeals were allowed. The High Court judgment was set aside, the Tribunal's orders for the three years upheld, and the questions answered in favour of the assessee, without costs. No fresh compensation valuation, interest allocation or current dividend-tax rule was laid down (physical page 13).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Three appeals allowed; Tribunal relief restored; no costs

Final on the historical section 104 claims and facts

Pre-1 March 1970 agricultural-land transfer and the former undistributed-income regime; no general exemption of all compensation or all capital gains.

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

05 AKHB REVIEW POINT

Separate statutory distributable income from cash in the bank and from the directors' reasonable commercial assessment. An exempt capital amount cannot be inserted into the historical tax base merely because it is available, and a reserve decision requires consideration of the actual losses and business needs. This does not make a board resolution alone conclusive in every tax dispute.

The checked Department-hosted 2011 compilation, page 585, records omission of sections 104–109 by the Finance Act, 1987 from 1 April 1988. The judgment therefore concerns a former regime. It does not determine present dividend taxation, general agricultural-land taxation or the later treatment of acquisition interest.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and three years

Source url: [Open cited source](#)

Pdf pages: 1; 4

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Facts, source table and historical section 104

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6; 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Exempt compensation and distributable-income analysis

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Business judgment, qualification and final relief

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Omission of historical undistributed-income regime

Source url: [Open cited source](#)

Pdf pages: 585

Paragraphs: Chapter XI heading; section 104 omission entry

Source role: bounded historical statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.N. Srikrishna, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 13 PDF pages; SHA-256

38b1d17d8370a3b16788237a8d9f8dd1f23caddbb88f0e53529e1a67dc26c5e4. Original bytes preserved.

Complete unnumbered judicial text on physical pages 4–13/SCR 38–47; editorial headnote and quoted earlier authorities kept distinct.

[Open cited source rendition](#)

The opening pairs the stated assessment years with previous years ending in March, while page 6 uses June accounting-year endings. The note preserves the expressly stated AYs without repairing the accounting chronology.; The table's printed 90% dividend figure of Rs 92,223 does not equal 90% of the stated Rs 1,02,420 surplus. No replacement demand or dividend figure is computed.; Page 5 states compensation awarded of Rs 7,64,787 and a reserve/capital-gain amount of Rs 7,45,109.72 without a complete bridge. They are not silently treated as identical.; Page 11 describes unreasonableness of payment as a second prerequisite for making an order, while the reproduced section 104(2) on page 7 says no order shall be made if that condition exists. The note follows the quoted statutory exception and clear operative conclusion: the reasonable non-distribution decision did not justify the levy.; Earlier 1922 Act authorities are comparative reasoning. The decided appeals directly concern the 1961 Act historical provisions.

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: 13](#)

SHA-256: 38b1d17d8370a3b16788237a8d9f8dd1f23caddbb88f0e53529e1a67dc26c5e4

[official department hosted historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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