

C.I.T., Mumbai v. M/s. Walfort Share & Stock Brokers P. Ltd.

Civil Appeal Nos. 4927-4954 of 2010

[2010] 7 S.C.R. 748 | 2010-07-06

Whether the loss from the genuine dividend-stripping transactions could be disallowed as artificial or treated as expenditure incurred to earn exempt dividend under section 14A, and how the later section 94(7) rule and AS-13 fit that question.

14A | 10(33) | 94(7)

Two-judge bench | S. H. Kapadia, CJI | Swatanter Kumar, J.

Assessment years: 2000-01

Historical section 14A decision; later statutory text requires a separate check

Apply this note to its stated assessment year and statutory version. Finance Act 2022 changed section 14A; the bounded official explanation below does not settle every issue of temporal reach. The dividend exemption, Rule 8D and section 94(7) provisions must be checked for the relevant year. Later treatment remains not verified, and no Income-tax Act, 2025 mapping is certified.

[paragraphs 10.1-10.5 and the two applicability statements / PDF pages 44](#)

01 FACTS OF THE CASE

Walfort, a stock-exchange member engaged in trading and brokerage, invested Rs. 8 crore in Chola Freedom Technology Mutual Fund units on the record date, 24 March 2000. It received dividend of Rs. 1,82,12,862.80 and sold the units on 27 March after NAV fell from Rs. 17.23 to Rs. 13.23. Sale proceeds were Rs. 5,90,55,207.75 and the transaction also yielded an incentive of Rs. 23,76,778 (paragraph 4).

For AY 2000-01 the assessee claimed the dividend exemption and a sale loss of Rs. 2,09,44,793. After adjusting the incentive and transaction charges, the AO disallowed a reduced loss of Rs. 1,82,12,862.80, equal to the dividend, as a pre-designed artificial loss. The CIT(A) affirmed. The Special Bench deleted the disallowance and the Bombay High Court upheld that result. Revenue's appeals argued that the dividend was cost recovery or an identifiable dividend asset bought as part of the unit, making its cost disallowable under section 14A (paragraphs 4-10).

Source: [reported judgment / paragraphs 3-10 / PDF pages 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court affirmed section 14A's apportionment principle but rejected its use to recharacterise this sale loss. Expenditure, return on investment, return of investment, acquisition cost and a later sale loss are different concepts. A return of investment or pay-back is not the expenditure deduction contemplated by section 14A. Disallowance requires a proximate relationship between relevant expenditure and tax-exempt income; Revenue's two-asset theory did not establish that relationship here (paragraphs 11-14).

For the pre-section-94(7) transactions the actual purchase, sale proceeds and dividend were established. A planned use of the statutory dividend exemption did not, on those facts, make the transaction sham. Section 94(7), introduced prospectively from 1 April 2002, specifically restricted qualifying dividend-stripping losses to the extent of the exempt dividend. The Court distinguished the remaining loss from the amount ignored under that provision; the enactment did not label the entire transaction fictitious (paragraphs 15-17).

Sections 14A and 94(7) addressed different deductions: expenditure related to exempt income versus loss arising on acquisition and later disposal within the statutory conditions. They could not be collapsed so as to count this dividend twice. AS-13 did not require reduction of acquisition cost here: the units bought at ruling NAV did not carry a vested right to an already accrued and payable pre-purchase dividend. The Court distinguished that situation from buying an investment with a crystallised income entitlement (paragraphs 18-19).

Source: [reported judgment / paragraphs 11-19 / PDF pages 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 / judgment](#)

03 JUDICIAL DECISION

All the Department's civil appeals were dismissed, with no order as to costs. The High Court's result remained undisturbed. The lead pre-1 April 2002 sale-loss disallowance could not be sustained either as an artificial transaction on the established facts or as section 14A expenditure; the separate statutory limits under section 94(7) were explained (paragraph 20 read with paragraphs 14-19).

Source: [reported judgment / paragraphs 14-20 / PDF pages 22, 23, 24, 25, 26, 27, 28, 29 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Respondent assessees in the Department's appeal batch

Civil Appeal Nos. 4927-4954 of 2010 dismissed; no costs

Final merits disposal affirming the High Court result; no remand

The lead historical dividend-stripping transaction and the specific expenditure/loss distinction. The source describes two sets of cases but supplies no individual AY/disallowance schedule; no general immunity for sham transactions, all tax-avoidance arrangements or later statutory regimes is decided.

Source: [reported judgment / paragraphs 20 / PDF pages 29 / judgment](#)

05 AKHB REVIEW POINT

Start with the item claimed: an actual deductible expense, an asset cost, a return of capital or a realised trading loss. Walfort does not create a general exemption from section 14A for expenses connected with acquiring shares; it rejects reclassifying this sale loss as dividend-earning expenditure. For a section 94(7) question, verify the assessment year, record date, acquisition and disposal dates, exempt receipt and the exact version of the holding-period rule.

The pre-2002 genuineness holding depends on proved transactions and the then statutory framework. It is not a present-day tax-planning clearance, a current AS-13/Ind AS opinion or a substitute for later anti-avoidance law. The later Finance Act 2022 section 14A explanation is separately bounded below and does not itself decide how a sale loss should be classified. No automatic Income-tax Act, 2025 carryover is made.

Source: [reported judgment / paragraphs 14-19 / PDF pages 22, 23, 24, 25, 26, 27, 28, 29 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

14; 15-59; 30-37; 147; 154; 115-0

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 14A

Role: Expenditure versus realised sale-loss distinction

Basis: Paragraphs 14 and 18; proximate nexus required for relevant expenditure disallowance.

2.

Act: Income-tax Act, 1961

Section: 10(33)

Role: Historical exemption for the mutual-fund distribution

Basis: Paragraphs 4, 12-13 and 17.

3.

Act: Income-tax Act, 1961

Section: 94(7)

Role: Separate dividend-stripping loss restriction and commencement

Basis: Paragraphs 12 and 16-18; commencement 1 April 2002, historical statutory conditions.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S. H. Kapadia, CJI

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

LATER STATUTORY QUALIFICATION AND TEMPORAL LIMITS

Status: bounded official explanation verified not current law certificate

Summary: Circular 23/2022 explains that Finance Act 2022 inserted an Explanation to section 14A dealing with expenditure related to exempt income even when that income has not accrued, arisen or been received in the relevant previous year; it also added a non-obstante clause to section 14A(1). The circular states 1 April 2022 as the effective date for both amendments, while describing the Explanation as deemed always to have applied. This bounded check does not resolve judicial disputes about temporal reach, certify current law, or turn these historical judgments into rulings on the new text.

Source url: [Open cited source](#)

Paragraphs: 10.1-10.5 and the two applicability statements

Pdf pages: 44

SOURCE & VERIFICATION

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

Identified source rendition: 29 PDF pages; SHA-256

07b406b101746ae6990302c7287ad65fdc57df598b92a3c31af0dce69674c8f3. Original bytes preserved.

Complete judgment paragraphs 1-20, physical PDF pages 9-29. Earlier pages and the opening portion of page 9 contain editorial headnote, references, jurisdiction and appearances.

[Open cited source rendition](#)

Judicial text starts at physical page 9 after extensive editorial headnotes; only paragraphs 1-20 are treated as the Court's judgment.

The initial claimed loss, the reduced disallowance equal to dividend, the incentive and overall economic result are distinct amounts; they must not be conflated.

Statements about losses before and after 1 April 2002 are confined to the dividend-stripping question and the section 94(7) conditions, not all exempt-income losses.

The acquisition-of-asset discussion in paragraph 18 is read in the expenditure-versus-sale-loss context; it is not presented as exempting borrowing costs or other actual expenses whenever shares are acquired.

The section 94(7) extract and AY references in counsel's submissions are historical; no current holding period or complete connected-appeal AY schedule is inferred.

No matching official-host original was present in the supplied candidate queue; the preserved reported mirror is truthfully identified as the primary source.

Reported citation and date verified visually on the cover; catalogue neutral citation 2010INSC360 is not independently adopted.

The lead matter concerns financial year 1999-2000 / AY 2000-01 (paragraph 4). Paragraph 17 distinguishes two sets of cases by the 1 April 2002 commencement of section 94(7); it does not provide an appeal-by-appeal AY or result allocation. References to AY 2002-03 in submissions and statutory commencement are not recast as the lead assessment.

STATUTORY SCOPE

Lead AY 2000-01; original section 14A inserted by Finance Act 2001 retrospectively from 1 April 1962; historical section 10(33) dividend/unit exemption; section 94(7) introduced with effect from 1 April 2002, applicable from AY 2002-03. The three-month acquisition/disposal text reproduced is the historical provision, not a statement of later/current holding-period rules. No Rule 8D or Finance Act 2022 determination was made.

No automatic Income-tax Act, 2025 crosswalk, comprehensive later-treatment audit or present-law certification. The historical dividend exemption and Rule 8D texts must not be assumed to govern a different year.

LATER TREATMENT

Source checked 2026-10-04. Subsequent judicial treatment and statutory changes have not been comprehensively verified. The separately identified Finance Act 2022 explanation is a bounded check, not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 29](#)

SHA-256: 07b406b101746ae6990302c7287ad65fdc57df598b92a3c31af0dce69674c8f3

[official CBDT explanatory circular - PDF pages: 94](#)

SHA-256: 0588a574afe765a7eb2d17040698008625726dfb01dc50f3a2a3233b15710b24

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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.

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