

M/s. McDowell & Company Ltd. v. Commissioner of Income-Tax, Karnataka Central, Bangalore

Civil Appeal No. 3893 of 2006

[2017] 2 SCR 856 | 2017-03-09

Whether McDowell could claim the accumulated losses of amalgamating Hindustan Polymers Ltd. under section 72A without reducing them by Rs.25.02 lakhs of overdue interest waived by financial institutions, after that interest had been deducted by Hindustan Polymers.

41(1) | 72A

Two-judge bench | A. K. Sikri, J. | Ashok Bhushan, J.

Assessment years: 1983-84

Inherited-loss computation, not general successor liability

The ruling reads sections 41(1) and 72A together to determine the net accumulated losses transferred on these amalgamation facts. It distinguishes the section 41(1)-only authority and does not establish an unrestricted successor-taxability rule. The source's BIFR/sanction chronology is unreconciled; current statutory versions and later treatment remain unverified.

01 FACTS OF THE CASE

Hindustan Polymers Ltd. (HPL), a sick industrial company, amalgamated into McDowell under a scheme the judgment states was sanctioned in 1982 with effect from 1 April 1977. HPL had deducted interest accrued on bank and financial-institution loans. Under the scheme the lenders waived pre-1 April 1977 interest. The Central Government had declared the amalgamation eligible for section 72A relief, enabling McDowell to carry forward and set off HPL's accumulated losses (paragraphs 3-5 and 10; physical pages 3-4 and 7).

In assessment year 1983-84 the loss set-off was initially allowed without adjustment for the waived interest. During reassessment the Assessing Officer reduced the accumulated losses by the remission income. CIT(A) upheld that treatment; the Tribunal accepted the assessee's argument that HPL was a different entity and the section 41(1) income could not be assessed in McDowell's hands. On a section 256 reference concerning Rs.25.02 lakhs, the Karnataka High Court ruled for Revenue. McDowell appealed (paragraphs 1 and 5-6; physical pages 3-5).

Source: [reported judgment / paragraphs 1-6; amalgamation, interest deduction and waiver, assessment year, amount and reference / PDF pages 3, 4, 5 / judicial text](#); [reported judgment / paragraphs 10; scheme sanctioned in 1982 effective 1 April 1977 / PDF pages 7 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The assessee relied on its section 72A entitlement and on Saraswati Industrial Syndicate's interpretation of section 41(1), arguing that the person whose expenditure was previously allowed was HPL, which ceased to exist on amalgamation. The judgment sets out that submission and the earlier authority's treatment of corporate identity, but does not adopt it as dispositive of the present combined statutory issue (paragraphs 7-9; physical pages 5-7).

The Court accepted that HPL's separate corporate identity ended, while rights depended on the amalgamation scheme. The interest-waiver benefit arising after HPL's cessation was in fact enjoyed by McDowell. Crucially, section 72A deemed the accumulated losses to be available to McDowell. Their amount could not be taken over while disregarding the section 41(1) remission relevant to computing them: only the resulting net accumulated losses could be set off. The Assessing Officer's calculations were not disputed (paragraph 10; physical pages 7-8).

Saraswati Industrial Syndicate dealt with section 41(1) by itself, not the section 72A loss-transfer benefit. The Court distinguished that context and approved the High Court's reading of sections 41(1) and 72A together, including section 72A's objective of facilitating viable amalgamations of sick industrial undertakings (paragraph 10; physical pages 7-9).

Source: [reported judgment / paragraphs 7-9; assessee argument and quoted earlier authority, distinguished in paragraph 10 / PDF pages 5, 6, 7 / judicial text](#); [reported judgment / paragraphs 10; combined sections 41\(1\)/72A reasoning and net-loss computation / PDF pages 7, 8, 9 / judicial text](#)

03 JUDICIAL DECISION

The appeal was dismissed as without merit. The High Court's conclusion requiring the waived interest to be accounted for in computing the section 72A loss benefit was sustained. The Court ordered no remand; the operative disposition contains no costs direction (paragraphs 10-11; physical pages 7-9).

Source: [reported judgment / paragraphs 10-11 / PDF pages 7, 8, 9 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Civil Appeal No. 3893 of 2006 dismissed; High Court's section 41(1)/72A analysis sustained

Final determination that the interest remission must reduce accumulated losses when computing the section 72A benefit

This is the combined section 41(1) and section 72A loss-computation setting. It is not a freestanding holding that every receipt or remission of an extinguished company is automatically the successor's taxable income, or that all loan waivers are taxable.

Source: [reported judgment / paragraphs 11 / PDF pages 9 / judicial text](#)

05 AKHB REVIEW POINT

Reconcile the predecessor's deducted liabilities, the scheme's waiver terms and the accumulated-loss computation before carrying losses into the amalgamated company. The statutory entitlement to inherit losses does not establish their gross amount. Keep the netting of remission against inherited losses distinct from a general successor-liability proposition; the Court expressly distinguished the section 41(1)-only authority. For any other amalgamation or year, verify the operative versions of sections 41(1) and 72A, scheme terms, eligibility and later treatment.

Source: [reported judgment / paragraphs 5-10; prior deduction, amount and combined statutory computation / PDF pages 4, 5, 7, 8, 9 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Section 72A accumulated-loss computation

Result: Previously deducted interest subsequently waived had to be adjusted before the net accumulated loss could be set off by McDowell

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: 10-11

Source role: judicial text

2.

Issue: Reliance on Saraswati Industrial Syndicate

Result: Distinguished because that decision did not concern section 72A; the combined loss-transfer issue controlled here

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: 10

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

256

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. K. Sikri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATIONHon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 9 PDF pages; SHA-256

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Judgment paragraphs 1-11 begin on physical page 3 (SCR 858) and conclude on physical page 9 (SCR 864). Physical pages 1-2 contain reported metadata, editorial headnote and references; the beginning of page 3 finishes appearances before the judicial text.

Open cited source rendition

Paragraph 5 identifies assessment year 1983-84.

The Court reads section 41(1) together with section 72A to determine the net accumulated loss benefit inherited on amalgamation. Section 256 describes the reference route. Companies Act, 1956 sections 391 and 392 are scheme-approval background, not Income-tax Act provisions.

The preserved eSCR-reported PDF from the public mirror is the source read; no independently retrieved signed-original hash is claimed.; The local source SHA-256, byte count and physical-page count match the consolidated source index. A fresh web-tool open of the public mirror URL failed during this pass, so present online availability is not certified.; Editorial headnotes are separated from judicial text. Paragraph and physical PDF-page pins refer to the reported judicial text, except identified metadata pins.; The reported narrative refers to BIFR/SICA proceedings in paragraph 3 while elsewhere specifying 1982 sanction and 1 April 1977 effectiveness. That chronology has not been independently reconciled; the note does not use the BIFR reference to infer an additional historical date.; Paragraph 10 sometimes uses amalgamated company to refer to HPL, the predecessor. The note identifies HPL as the amalgamating/transferor company and McDowell as the surviving amalgamated company so the direction of the loss transfer remains clear.; The extensive quotation of Saraswati Industrial Syndicate in paragraphs 8-9 is the assessee's supporting argument; paragraph 10 distinguishes it for the section 72A setting. The two should not be conflated.; This is the 9 March 2017 income-tax amalgamation decision, not another McDowell judgment concerning tax avoidance or excise.

STATUTORY SCOPE

Historical assessment-year dispute under the Income-tax Act, 1961. No current-law certification or automatic mapping to the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent-treatment audit has been performed. References to earlier authorities below describe their treatment within this judgment, not an independent cross-judgment verification.

IDENTIFIED SOURCE LINKSreported judgment - PDF pages: 9

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