

National Travel Services v. Commissioner of Income Tax, Delhi, VIII

Civil Appeal Nos. 2068-2071 of 2012 / Civil Appeal No. 837 of 2018

[2018] 1 SCR 336 | 2018-01-18

Whether the amended deemed-dividend provision requires registered as well as beneficial shareholding, and whether Ankitech should be reconsidered by a larger bench.

2(22)(e) | 2(22), Explanation 3

Two-judge bench | R.F. Nariman, J. | Navin Sinha, J.

Assessment years: See the source-scope notes; no year inferred.

2018 reference; four appeals withdrawn in 2021

The 2018 view remains prima facie. The 2021 order disposed of Civil Appeal Nos. 2068-2071 of 2012 by withdrawal without deciding the statutory question. It does not establish the result of Civil Appeal No. 837 of 2018.

[10 August 2021 withdrawal order, reproduced on Indian Kanoon](#)

01 FACTS OF THE CASE

The partnership had three partners with profit shares of 35%, 15% and 50%. It borrowed Rs. 28,52,41,516 from Jetair Private Limited. The firm had subscribed for 48.19% of Jetair's equity in the names of two individual partners, who appeared in the register but held the shares on the firm's behalf. The firm was thus described as the beneficial shareholder (paragraph 3).

The Delhi High Court had addressed the amended section 2(22)(e) and the firm's status. Before the Supreme Court the assessee relied on Ankitech and an order dated 5 October 2017 in Madhur Housing, CA 3961/2013, said in the judgment to have affirmed Ankitech's reasoning. Revenue argued that the cases concerned different limbs of the definition. The Court considered that disagreement but did not finally resolve the assessments (paragraphs 4 and 13-16).

Source: [reported judgment / paragraphs 3-4 and 13-16 / PDF pages 4, 9, 10 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The referring bench traced the registered-shareholder approach under the 1922 Act and the original 1961 Act, then examined the amended wording applicable to loans after 31 May 1987. The amendment expressly referred to beneficial ownership carrying at least 10% voting power and added payments to specified concerns in which the shareholder had substantial interest. It also considered the explanatory memorandum and the defined 20% concern-income threshold (paragraphs 5-12).

The bench questioned using different meanings of shareholder in the two limbs, because the second refers back to such shareholder. It considered that the insistence on both registration and beneficial ownership could frustrate the amended wording and purpose, and favoured reconsideration of Ankitech's approach (paragraphs 17-18). These observations explain why a reference was considered necessary; they must be read with the express *prima facie* qualification in paragraph 19.

The Court left other questions open, specifically whether the facts fitted the second limb concerning a qualifying concern. It therefore did not make a final deemed-dividend addition, decide the firm's ultimate liability or formally dispose of the appeals for either party (paragraph 19).

Source: [reported judgment / paragraphs 5-19, including quoted earlier provisions and authorities / PDF pages 4, 5, 6, 7, 8, 9, 10, 11 / judicial text](#)

03 JUDICIAL DECISION

The five appeals were placed before the Chief Justice of India for constitution of an appropriate three-judge bench to re-examine the entire question. Paragraph 19 expressly states the view to be *prima facie*; paragraph 20 orders accordingly. No final allowance or dismissal of the appeals or quantified tax direction was made.

Source: [reported judgment / paragraphs 19-20 / PDF pages 11 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

No merits winner determined by the 2018 reference or the identified 2021 withdrawal order

2018: appeals referred through the Chief Justice for an appropriate three-judge bench. On 10 August 2021, Civil Appeal Nos. 2068-2071 of 2012 were dismissed as withdrawn under the Direct Tax Vivad se Vishwas Act, 2020.

The 2018 view was prima facie. The identified 2021 withdrawal order did not decide the deemed-dividend question.

Neither order establishes a final overruling of Ankitech or Madhur Housing, a final rule that beneficial ownership alone always suffices, or an adjudication that the firm satisfies the second limb. The status of companion Civil Appeal No. 837 of 2018 remains unverified.

Source: [reported judgment / paragraphs 19-20 / PDF pages 11 / judicial text](#); [10 August 2021: reproduced withdrawal order and record of proceedings \(Indian Kanoon\)](#)

05 AKHB REVIEW POINT

Use this note to identify the disputed interpretative issue and its procedural stage. Keep the legal and beneficial ownership evidence, voting rights, the identity of the borrower and the relevant concern-interest requirement separate. The quoted percentages state the historical definition examined; they do not establish that every factual element or limitation of the deemed-dividend provision was proved here.

Do not turn paragraph 18 or the editorial headnote into an unqualified final ratio. The Court expressly chose a larger-bench reference in paragraph 19 and reserved the case's fit within the second limb. Withdrawal of the identified appeals supplies no merits answer to the competing interpretations. Apply the relevant statutory version and examine later authority separately.

Source: [reported judgment / paragraphs 3-4 and 12-20; editorial procedural limits / PDF pages 4, 9, 10, 11 / judicial text](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(32): historical substantial-interest comparison; Indian Income-tax Act, 1922, section 2(6A)(e): earlier authorities

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R.F. Nariman, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 11 PDF pages; SHA-256 c02280725a655d5b9aadb171aa49d8f9a653047ceddef580125c2a0e56dbc974. Original bytes preserved. Judicial paragraphs 1–20 on physical pages 3–11 (SCR 338–346); cover/headnote and case-law summary precede the author line. The final paragraphs expressly state prima facie reconsideration and placement before the Chief Justice. No adjacent judgment.

Open cited source rendition

No assessment-year allocation is given. AY 1988-89 in the quoted memorandum is the amendment's application date, not a case-specific year.

The editorial headnote states the beneficial-owner reasoning strongly, but judicial paragraph 19 expressly calls the view prima facie and seeks reconsideration by a larger bench. The operative reference controls the note's stage label.; The preliminary criticism of Ankitech does not itself establish formal overruling of that case or the Madhur Housing order.; The source does not identify the assessment years or quantify an ultimate deemed-dividend assessment; the loan amount is not described as a Supreme Court tax demand.

STATUTORY SCOPE

The 2018 reference examined the historical amended provision. The identified 2021 withdrawal supplies no statutory ruling. Later legislation and Income-tax Act, 2025 mapping remain unverified.

IDENTIFIED LATER PROCEDURAL HISTORY

Judgment source checked 2026-10-04. Verified the 10 August 2021 order allowing IA No. 46492/2021 and dismissing Civil Appeal Nos. 2068–2071 of 2012 as withdrawn. Comprehensive subsequent treatment and companion Civil Appeal No. 837 of 2018 remain unverified. Ankitech and the 5 October 2017 Madhur Housing order are described as recorded in the 2018 judgment; their complete originals are not independently reviewed here.

Later-history update checked on 6 October 2026: the identified 2021 withdrawal concerns only the four 2012 appeals. The companion 2018 appeal and comprehensive later history remain unverified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 11](#)

SHA-256: c02280725a655d5b9aadb171aa49d8f9a653047ceddef580125c2a0e56dbc974

[10 August 2021 withdrawal order, reproduced on Indian Kanoon](#)

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