

Dalmia Power Limited & Anr. v. Assistant Commissioner of Income Tax, Circle 1, Trichy

Civil Appeal Nos. 9496-9499 of 2019 (arising from SLP(C) Nos. 19678-19681 of 2019)
[2019] 18 SCR 1236 | 2019-12-18

Whether the Department had to receive and consider returns revised to implement sanctioned amalgamation schemes where the final sanctions came after the historical section 139(5) deadline.

139(5) | 119(2)(b) | 170(1)

2-judge bench | Uday Umesh Lalit, J. | Indu Malhotra, J.

Assessment years: 2016-17

Later modified-return framework requires a fresh check

This judgment concerns assessment year 2016-17 and returns revised after delayed NCLT sanction. CBDT Circular 23/2022 records the later insertion of section 170A, effective from 1 April 2022, and Rule 12AD/ITR-A. Do not present Dalmia as a current blanket permission to file a late or manual return without checking that later framework.

[paragraphs 35.4 and 35.7](#) / [PDF pages 84, 85](#) / [official explanatory circular](#)

01 FACTS OF THE CASE

Dalmia Power and Dalmia Cement (Bharat) filed their original returns for assessment year 2016-17 in September and November 2016. Four interconnected restructuring schemes involving nine transferor companies specified 1 January 2015 as the appointed date and 30 October 2018 as the effective date. The NCLT sanctioned the schemes through orders in 2017 and 2018, with the final order dated 1 May 2018. Scheme clauses permitted consequential return revisions after ordinary filing time limits (paragraphs 2.1-2.10 and 4.1-4.2).

The companies manually filed revised returns on 27 November 2018. The ordinary revised-return date identified for the year was 31 March 2018, before the final sanction. Revenue first issued and then recalled a section 143(2) notice, insisting on CBDT delay-condonation under section 119(2)(b) and compliance with the return-filing rules. The Madras High Court Single Judge required receipt of the revised returns; the Division Bench reversed. The companies appealed (paragraphs 2.11-2.20).

Source: [reported judgment](#) / [paragraphs 2.1-2.20](#) / [PDF pages 4, 5, 6, 7, 8, 9](#) / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court examined the specific scheme clauses, notices served under Companies Act section 230(5), and Revenue's failure to object within the prescribed opportunity. Once sanctioned, the schemes had statutory force and the amalgamating entities lost their separate identity. Applying Marshall Sons, the appointed date governed the transfer specified in the sanctioned scheme unless altered by the sanctioning court. Consequential computation had to reflect the income, assets and liabilities passing to the successors (paragraphs 4.1-4.9).

The revised returns were not corrections of an omission or wrong statement in the ordinary section 139(5) sense. They became necessary because the NCLT sanctions arrived later. It was impossible to submit the scheme-based revisions by 31 March 2018 when final sanction came after that date. The Court therefore held the historical section 139(5) restriction inapplicable to these facts (paragraphs 5-8).

The Court also rejected the demand for section 119(2)(b) condonation in this setting: the returns implemented a prior NCLT sanction of schemes to which Revenue had made no objection. Its procedural reasoning was directed to correct assessment of the successor, not a general judicial extension of every missed return deadline or a blanket rule that an amalgamation scheme overrides all tax legislation (paragraph 9).

Under section 170(1), the successor had to be assessed for the relevant income after succession. Since the transferees had taken over the businesses with their assets, liabilities, profits and losses, Revenue had to assess them after taking account of the consequential revised returns. This required consideration of those returns; it did not itself allow every loss, credit or deduction claimed in them (paragraph 10).

Source: [reported judgment / paragraphs 4.1-4.9 / PDF pages 10, 11, 12, 13, 14, 15, 16, 17, 18 / judicial text](#); [reported judgment / paragraphs 5-9 / PDF pages 18, 19 / judicial text](#); [reported judgment / paragraphs 10 / PDF pages 19, 20 / judicial text](#)

03 JUDICIAL DECISION

All civil appeals were allowed. The Division Bench judgment was set aside and the Single Judge judgment restored. Revenue was expressly directed to receive the appellants' revised returns for assessment year 2016-17 and complete that assessment taking the NCLT-sanctioned schemes into account. Pending applications were disposed of. The Court did not quantify an allowed loss, refund or final tax liability (paragraphs 11-12).

Source: [official signed judgment / paragraphs 11-12 / PDF pages 27 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee transferee companies on acceptance and consideration of the scheme-based revised returns

Appeals allowed; Division Bench judgment set aside; Single Judge judgment restored; revised returns to be received and assessment completed in accordance with the sanctioned schemes

Final ruling on the filing and successor-assessment issue; underlying tax computation remained for assessment

Fact-specific delayed sanction and unopposed schemes. No automatic allowance of every return claim, general extension of statutory filing periods or present right to bypass prescribed electronic or modified-return procedures.

Source: [reported judgment / paragraphs 10-12 / PDF pages 20, 21 / judicial text](#)

05 AKHB REVIEW POINT

Keep the appointed date, effective date, sanction dates and tax-return deadline separate. Preserve the sanctioned clauses, service of notice on Revenue, objections or absence of objections, and the reconciliation of transferor and successor tax computations. The relief addressed an impossibility created by the sanction timetable and the need to assess the correct successor.

Later legislation matters. A bounded check of CBDT Circular 23/2022 confirms insertion of section 170A for modified returns after business reorganisation, with the amendment effective from 1 April 2022, and describes Rule 12AD/ITR-A. Dalmia's historical result is not a current filing manual; verify the applicable amended provision, rules and dates for a new restructuring. No present deadline or automatic 2025 Act equivalence is certified.

Source: [reported judgment / paragraphs 4.3-4.9 and 6-10 / PDF pages 13, 14, 15, 17, 18, 19, 20 / judicial text; official CBDT explanatory circular / paragraphs 35.4 and 35.7 / PDF pages 84, 85 / official explanatory circular](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

139(1); 139(3); 143(2); 143(3); 153

OTHER GOVERNING STATUTES

1.

Act: Companies Act, 2013

Provisions: 230-232; 230(5)

Role: Sanctioned schemes and notice to statutory authorities

2.

Act: Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

Provisions: 8

Role: Representation procedure

3.

Act: Income-tax Rules, 1962

Provisions: 12(3)

Role: Electronic filing objection in the procedural history

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Indu Malhotra, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER STATUTORY CHANGE AND LIMITS OF THE CHECK

Status: specific later change verified from official explanatory circular

Finding: Circular 23/2022 paragraph 35.4 records insertion of section 170A and the Rule 12AD/ITR-A procedure; paragraph 35.7 states amendment effect from 1 April 2022. Present legislation, amendments and individual filing deadlines were not comprehensively checked.

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 84; 85

Paragraphs: 35.4 and 35.7

Source role: official explanatory circular

SOURCE & VERIFICATION

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

Identified source rendition: 27 PDF pages; SHA-256 f269fa1c5d3523bbc8496166858a118b5c2aa54b25c6e9f1567ba87719e1636c. Original bytes preserved. One signed judgment on physical pages 1-27; disposition and signatures/date on page 27. Cover, cases, author, key reasoning, outcome and signed date matched against the fully read reported judicial text. No full independent reread of the separate original rendition is claimed.

[Open cited source rendition](#)

SCR citation verified on the reported cover; no neutral citation inferred.

The Supreme Court's stated issue and express final assessment direction concern 2016-17. The quoted writ prayers and Single Judge directions also mention 2015-16; they are not treated as an additional merits assessment decided by this Court.

The source lists the April NCLT order as 20 April 2018 in paragraphs 2.6, 4.2 and 4.9 but as 22 April in paragraph 8. Both are after the identified return deadline; the note relies on the consistent final 1 May 2018 date without silently correcting the April variance.; Paragraph 4.9 has an isolated assessment-year 2016-2018 string; the issue and operative paragraph 11 consistently identify 2016-17.; The original and reported operative text mistype the Division Bench year as 0219; the narrative and jurisdiction identify 4 July 2019.; Tax-credit and deduction sections reproduced in scheme clauses are not separate merits holdings on each credit or deduction.

STATUTORY SCOPE

Historical judgment review; no automatic Income-tax Act, 2025 mapping or present procedure certificate.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment or current-law audit.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 27](#)

SHA-256: f269fa1c5d3523bbc8496166858a118b5c2aa54b25c6e9f1567ba87719e1636c

[reported judgment - PDF pages: 21](#)

SHA-256: da65a7bed6c1b9dfbda666edf5b19ae796ce7869b1e120f75799892f33dbe97b

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

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