

Tarulata Syam and Ors. v. Commissioner of Income-tax, West Bengal

Civil Appeal No. 147 of 1972 — Assessee-side special-leave appeal from the Calcutta High Court reference judgment.

[1977] 3 SCR 697 | 1977-04-28

A shareholder loan satisfying section 2(6A)(e) of the 1922 Act became deemed dividend when paid, within accumulated profits. Repayment before the previous year ended did not remove that character; no additional year-end-outstanding condition could be inserted into the statute (SCR 707-710).

Indian Income-tax Act, 1922 | 1922 Act: 2(6A)(e) | 1922 Act: 3 | 1922 Act: 4(1) | 1922 Act: 12(1A) | 1922 Act: 12(1B) | 1922 Act: 16(2) | 1922 Act: 23A | 1922 Act: 66(1)

3-judge bench | P.N. Bhagwati, J. | R.S. Sarkaria, J. | S. Murtaza Fazal Ali, J.

01 FACTS OF THE CASE

The assessee was shareholder and managing director of Dolaguri Tea Co. (P) Ltd., a company in which the public were not substantially interested. During calendar year 1956, withdrawals and account adjustments produced the assessed net loan of Rs.2,72,703. Repayment and further credits cleared the debit before year end. Accumulated profits exceeded the advances and the company was not engaged in money lending. The Tribunal, following its President's resolution of a division between its members, upheld deemed-dividend taxation for assessment year 1957-58. The Calcutta High Court answered the reference for the Revenue (SCR 699-701, 708).

Source: [SCR 697-710; physical PDF pages 1-14](#)

02 DISCUSSION BY THE HON'BLE COURT

Sarkaria J., for three judges, read the fiction as operating when its factual conditions arose. The company's controlled status, shareholder relationship, sufficient accumulated profits and absence of the ordinary money-lending exception were established. The transitional outstanding-loan condition concerning assessment year 1955-56 did not govern 1957-58. Counsel urged that repayment demonstrated a genuine loan and that the Australian provision's year-end language should be imported to avoid hardship. The Court held that the Indian legislature had adopted a different, conclusive statutory rule. Plain language could not be supplemented judicially even to soften harsh consequences; the assessment year being an annual unit did not postpone accrual or receipt until its end (SCR 701-709).

Source: [SCR 697-710; physical PDF pages 1-14](#)

03 JUDICIAL DECISION

The amount was taxable as deemed dividend despite complete same-year repayment. The fiction attached at payment once the applicable conditions were met. The Court expressly declined to determine counsel's hypothetical illustrations concerning repeated advances and double taxation, because those facts were absent (SCR 709-710).

Source: [SCR 697-710; physical PDF pages 1-14](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue The question was answered in favour of the Revenue and the appeal dismissed with costs. The assessment of Rs.2,72,703 net, grossed up to Rs.3,19,245, accordingly stood (SCR 700-701, 710). Historical income-tax questions decided within the issue limits stated in this note No current-law or comprehensive later-treatment certification.

Source: [SCR 697-710; physical PDF pages 1-14](#)

05 AKHB REVIEW POINT

This decision concerns the 1922 Act's historical deemed-dividend wording. Verify the applicable shareholder, accumulated-profit and exception requirements separately. Source discrepancies concerning commencement dates and the transitional provision are recorded below; no present-day 1961/2025 mapping or later-treatment verification is asserted.

Source: [SCR 697-710; physical PDF pages 1-14](#)

ASSESSMENT YEARS AND LIMITS

Years: 1957-58

Qualification: Only years material to the issues described are listed; different claims may cover different years as stated in the facts.

REPORTED CITATION

Supplied SCR report citation; no machine-generated neutral citation substituted.

STATUTORY CONTEXT

Australian Commonwealth Income-tax Assessment Act, section 108, quoted for statutory comparison only

SOURCE & VERIFICATION

Original reported Supreme Court judgment

Unchanged supplied SCR report; catalog identifies a CC-BY-4.0 public eSCR mirror. Not represented as a separately fetched official signed PDF. Headnote SCR 697-699; jurisdiction/counsel and sole Sarkaria J. judgment start SCR 699; final disposition SCR 710. No adjacent judgment included.

Open cited source rendition

SCR 699 prints 11.1.1966 within a narrative otherwise describing calendar 1956; the year is not silently repaired.

Withdrawals are printed Rs.4,97,442 at SCR 699 and Rs.4,97,449 at SCR 708; the repeatedly stated assessed net amount is Rs.2,72,703.

SCR 703 quotes section 12(1B) using first day of the previous year; SCR 709 paraphrases it as last day. The transitional condition was held inapplicable to AY 1957-58.

SCR 703 gives insertion effect as 1 April 1956, while SCR 706 describes the Finance Act 1955 as operating on 1 April 1955. No correction of the historical statutory version is asserted.

The opening of SCR 698 continues an incomplete headnote sentence; the judicial reasons remain complete.

STATUTORY SCOPE

Indian Income-tax Act, 1922. The historical operative enactment is identified. Other enactment references are source context only unless expressly identified as operative; no 2025 mapping is asserted.

LATER TREATMENT

Source checked 2026-10-09. Subsequent appeals, review proceedings, stays, reversals and later treatment have not been comprehensively checked. This is not a citator status certificate.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. Verify the original judgment, applicable statutory version and later treatment before reliance. The AKHB Review Point is editorial analysis.