

Commissioner of Income Tax, West Bengal I, Calcutta v. Clive Insurance Co. Ltd., Calcutta

Civil Appeal No. 1590 (T) of 1973 — Revenue certificate appeal from the Calcutta High Court judgment of 11 May 1971 in Income Tax Reference No. 138 of 1967.

[1978] 3 SCR 844 | 1978-05-02

The UK franked dividends satisfied section 49D's requirement of tax paid by deduction or otherwise under foreign law. Their underlying tax treatment and standard-rate deduction supported double-taxation relief to the Indian shareholder company, although it was not separately assessed to UK income-tax on those dividends (SCR 852-854).

Indian Income-tax Act, 1922 | 1922 Act: 49D and Explanation (iii)

3-judge bench | Y.V. Chandrachud, C.J. | D.A. Desai, J. | R.S. Pathak, J.

01 FACTS OF THE CASE

For AY 1960-61, the resident insurance company received UK dividends equivalent to Rs.15,266 net of Rs.9,881 British tax. It claimed section 49D relief under the 1922 Act. The Officer refused; the Appellate Assistant Commissioner considered proof of payment to UK Revenue lacking. The Tribunal allowed the claim and the Calcutta High Court agreed. The record included a specimen warrant stating the standard-rate deduction and certifying tax on the company profits. Absence of a reciprocal arrangement for the relevant period was admitted (SCR 846-849).

Source: [SCR 844-854; physical PDF pages 1-11](#)

02 DISCUSSION BY THE HON'BLE COURT

Desai J., for the three-judge Bench, examined the foreign law because section 49D itself required payment under that law. Under the then UK system, the payer paid its own corporate tax and could recoup tax at the standard rate from dividends. The dividend represented distribution of a taxed fund and was franked against further income-tax. The Court treated that statutory mechanism as tax borne on the shareholder's income for section 49D, without demanding an identical Indian withholding arrangement. The foreign rate could be ascertained from the standard rate; this corporate recipient had neither UK surtax liability nor relief complicating the calculation (SCR 849-854).

Source: [SCR 844-854; physical PDF pages 1-11](#)

03 JUDICIAL DECISION

All section 49D requirements read with its Explanation were satisfied. Relief was available on the doubly taxed income using the lower of the Indian and relevant foreign rates; the High Court's affirmative answer was upheld (SCR 847, 853-854).

Source: [SCR 844-854; physical PDF pages 1-11](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee The Revenue's appeal was dismissed with costs, sustaining the company's entitlement to relief. No remand was ordered (SCR 854). Substantive historical income-tax issue decided No current-law or comprehensive later-treatment certification.

Source: [SCR 844-854; physical PDF pages 1-11](#)

05 AKHB REVIEW POINT

Determine foreign tax incidence under the law applicable to the relevant year and the exact relief provision. This decision addresses a historical UK dividend system and admitted absence of a reciprocal arrangement then; neither is a statement of today's position. Later treatment and modern credit, treaty or 2025 mapping remain unverified.

Source: [SCR 844-854; physical PDF pages 1-11](#)

ASSESSMENT YEARS AND LIMITS

Years: 1960-61

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

Indian Income-tax Act, 1922, section 18: comparison; UK Income Tax Act, 1952, section 184: historical foreign-law mechanism examined in the judgment

SOURCE & VERIFICATIONOriginal 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 844-846; jurisdiction/counsel and sole Desai J. judgment begin SCR 846; reasons and dismissal end SCR 854. No adjacent judgment included.

Open cited source rendition

The headnote at SCR 845 labels Tata Sons Pvt. Ltd. and Cotton Fabrics Ltd. overruled. The reasons at SCR 854 instead note that those judgments followed the Calcutta decision, whose conclusion is affirmed here. The headnote label is not adopted.

The warrant certifies that tax on the relevant company profits has been or will be paid; this quoted form is not converted into a separately verified treasury receipt.

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.

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