

Deemed dividend to be assessed in the hands of shareholder instead of firm: Madras HC



The Madras High Court in a recent suit has ruled that the deemed dividend u/s 2(22) (e) of the Income Tax Act 1961, has to be assessed **in the hands of the shareholder** rather than assessing it in the hands of the business firm.

In the Case – “Commissioner of Income Tax Vs. M/s T. Abdul Wahid & Co.”, the Madras High Court has concluded that the Section 2(22) (e) of the **Income Tax** Act 1961, would be applicable in case a payment is done by a company, where the public is not substantially interested by means of advances or loan to a shareholder who is the beneficial owner of his shares.

Hence, in such a situation, the deemed dividend available to him u/s 2(22) (e) of the Act shall be assessed now in the hands of the shareholder himself. The deemed dividend shall not be assessed in the hands of partnership firm in question.

Given below are the case details.

Case details:

- The tax assessee, M/s T.Abdul Wahid & Co. had filed his [income tax return](#) and had shown the total income to the tune of ₹1,19,26,530/-.
- The order was passed u/s 143(3) of the Act for re-assessment of the aforesaid income. The assessment was then reopened by the issuance of notice u/s 148 of the Act.
- The reason behind this was that a sum of ₹2 Crores was shown as unsecured loan got from one firm M/s Abdul Wahid Tanneries Pvt., Ltd. by the assessee.
- One of the partners of M/s T.Abdul Wahid &, namely, Mr. T. Rafeeq Ahmed, who has 35% stake in the firm: M/s T.Abdul Wahid &, is also a shareholder in the company: M/s Abdul Wahid Tanneries Pvt. Ltd. and is holding 26.25% shares.
- Hence, it was stated that the shareholder of this company had a “substantial interest” in the assessee partnership firm.

As a result, the concept of the “deemed dividend” u/s 2(22)(e) of the Income tax Act would now apply.
