

The State of Tripura v. The Province of East Bengal

Case No. IV (4) of 1949

[1951] SCR 1 | 1950-12-04

Agricultural income-tax; civil jurisdiction; partition succession

Bengal Agricultural Income-tax Act 1944 sections 24(2), 65 | Indian Independence Act 1947 sections 9, 18(3) | Indian Independence (Legal Proceedings) Order 1947 article 4 | Indian Independence (Rights, Property and Liabilities) Order 1947 articles 10(2), 12(2)

Five-judge bench; 4:1 majority | Harilal Kania C.J. | Saiyid Fazl Ali J. | M. Patanjali Sastri J. | B.K. Mukherjea J. | N. Chandrasekhara Aiyar J.

Scope and outcome limits

Final appellate ruling on a preliminary jurisdiction question; underlying taxability, vires and exemption merits not decided. Agricultural income-tax scope must be explicit; this is not ordinary central income-tax.

01 FACTS OF THE CASE

The Ruler of Tripura challenged a notice requiring an agricultural-income return for his Chakla Roshanabad estates in Bengal, alleging that the statutory provision taxing rulers was invalid and that the notice could not lawfully found assessment. He sought declarations and an injunction in a suit instituted on 12 June 1945, before assessment. The suit was transferred to Alipore. After partition, the Province of East Bengal was substituted and challenged the Indian court's jurisdiction. The Calcutta High Court upheld that objection; the plaintiff appealed. Assessments completed later, while litigation was pending, did not change the character of the suit when instituted.

Source: [Primary report: SCR 4-7, 15-17; PDF 4-7, 15-17](#)

02 DISCUSSION BY THE HON'BLE COURT

By a four-to-one majority, the liability in respect of an actionable wrong under article 10 was not restricted to damages for a completed tort. On the plaint allegations, assumed correct only to determine the preliminary jurisdiction question, initiation of an unauthorised assessment could found an injunction action. The relevant liability passed to East Bengal and supported substitution under article 12, allowing continuation under article 4. Section 65 did not bar this pre-assessment suit as one to set aside or modify an assessment; Raleigh Investment was distinguished. Mukherjea J. separately concurred in this reasoning. Fazl Ali J. dissented, reading actionable wrong more narrowly and treating the statutory scheme and section 65 as excluding the suit. The majority did not decide whether the taxing provision actually was invalid.

Source: [Primary report: SCR 9-15, 21-39, 42-51; PDF 9-15, 21-39, 42-51](#)

03 JUDICIAL DECISION

The appeal was allowed, the High Court's order was set aside and the pending suit was directed to be heard and determined by the Subordinate Judge at Alipore. East Bengal was ordered to pay the appellant's costs throughout. The judgment resolved jurisdiction, not the ruler's ultimate tax liability. The effect and validity of the Pakistan ordinance raised against enforcement were left undecided.

Source: [Primary report: SCR 15, 50-51; PDF 15, 50-51](#)

04 OUTCOME / IN WHOSE FAVOUR

Taxpayer/plaintiff on the preliminary jurisdiction issue only. No substantive exemption or invalidation of the assessment was granted by this judgment.

Source: [Primary report: SCR 13-15, 50-51; PDF 13-15, 50-51](#)

05 AKHB REVIEW POINT

Separate a procedural victory preserving a forum from success on taxability. Record when the suit and assessment began, the exact statutory bar, the successor-party provision and any enforcement question left open. The ruling concerns the 1944 Bengal legislation and partition transitional orders; it should not be presented as a general present-day entitlement to restrain income-tax assessment through an ordinary civil suit.

Source: [Primary report: SCR 12-15, 42-44, 49-51; PDF 12-15, 42-44, 49-51](#)

SOURCE & VERIFICATION

[Supreme Court Reports primary scan — public eSCR mirror](#)

All 51 PDF pages read, including all separate opinions. Page 51 concludes the target report and begins an unrelated Narothamdas report.

[Open cited source rendition](#)

STATUTORY SCOPE

Final appellate ruling on a preliminary jurisdiction question; underlying taxability, vires and exemption merits not decided.

LATER TREATMENT

Source checked 2026-10-18. Subsequent treatment and current-law applicability have not been comprehensively checked.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from an identified primary report. Independent human review is not represented.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, applicable statutory version and subsequent treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.