

E. M. Muthappa Chettiar v. The Income-tax Officer, Special Circle, Coimbatore

Civil Appeal No. 107 of 1956 — Supreme Court special-leave appeal against refusal of prohibition directed to excess-profits-tax recovery. and connected proceedings (full list below)

[1961] 1 SCR 788 | 1960-09-21

Notices to the managing partner validly supported the excess-profits-tax assessment and recovery against the appellant under the Act's incorporated, modified income-tax machinery.

Excess Profits Tax Act, 1940; Indian Income-tax Act, 1922 as incorporated and modified for excess-profits tax | 1922 Act: 23(5)(b) (background income-tax assessment) | 1922 Act: 29 | 1922 Act: 44 (as modified under Excess Profits Tax Act section 21) | 1922 Act: 45–47, especially 46(1) and 46(2) | 1922 Act: 63

5 Judges | S. K. Das | M. Hidayatullah | K. C. Das Gupta | J. C. Shah | N. Rajagopala Ayyangar

01 FACTS OF THE CASE

Muthappa & Co. managed Saroja Mills. The appellant disputed his partner's 1943 dissolution notice and maintained in correspondence and civil litigation that the firm continued. Excess-profits-tax assessments for 1942 and the broken 1943 period were completed after notices to that managing partner. The appellant challenged recovery in the Madras High Court and, separately, brought an Article 32 petition attacking assessment. He argued that dissolution ended the partner's authority and that no individual demand notice had made him an assessee in default. A further objection concerned accrued agency remuneration withheld against the mill's damages cross-claim.

Source: [SCR 789–798; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court gave two answers on assessment. The appellant's maintained position and pending dissolution litigation precluded his inconsistent attack on the partner's representative capacity; counsel accepted the difficulty. Independently, the Excess Profits Tax Act assessed the business, unlike the ordinary income-tax units. Section 21 incorporated income-tax machinery, including section 44 as modified to preserve joint and several assessment liability after discontinuance, and section 63 for service. Notice to the managing partner was therefore binding even assuming earlier dissolution. The Court approved the reasoning in Pandu Rao and Bose. On remuneration, the firm used mercantile accounts and the mill admitted the contractual amount due. Withholding Rs.89,137 against a cross-claim did not prevent accrual. On recovery, section 21's proviso made the appellant an assessee in respect of the business; service of the demand on the managing partner counted as service on him.

Source: [SCR 791–800; reasoning, with opinion boundaries preserved](#)

03 JUDICIAL DECISION

Both assessment and recovery objections failed. The appellant was an assessee in default, enabling section 46(2) recovery. The Court expressly declined the broader question whether coercive recovery applied generally to “other persons liable to pay” as distinguished from assessees: that issue was unnecessary because the appellant himself was an assessee under the incorporated scheme.

Source: [SCR 797-801; holding and express limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Civil Appeal No. 107 of 1956 and Petition No. 130 of 1958 both dismissed. The excess-profits-tax assessment bound the appellant and the recovery proceedings could continue. Costs in the appeal; no costs order in the jointly heard petition.

Source: [SCR 801-801; operative disposition and costs](#)

05 AKHB REVIEW POINT

Trace each procedural rule through its incorporating provision and any authorized modification. The business-unit premise and section 21 proviso are central; the decision is not a universal rule that one former partner's notice suffices for every modern firm assessment. Preserve the separate assessment and recovery proceedings, the limited accrual point and the expressly reserved broader recovery question.

Source: [SCR 795-801; editorial analysis based on the identified primary passages](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 107 of 1956 — Supreme Court special-leave appeal against refusal of prohibition directed to excess-profits-tax recovery. / Petition No. 130 of 1958 — Supreme Court original Article 32 petition challenging the excess-profits-tax assessment; heard with the appeal.

ORIGINATING PROCEEDINGS

1.

Case numbers: W.P. No. 498 of 1952

Relationship: Madras High Court, judgment 21 January 1954, concerning recovery.

2.

Case numbers: O.S. No. 50 of 1946

Relationship: Separate Coimbatore partnership litigation discussed in the facts; its pending Supreme Court appeal was not disposed of in this judgment.

CHARGEABLE ACCOUNTING PERIODS

Calendar year 1942; 1 January–4 March 1943

SOURCE & VERIFICATION

Original reported Supreme Court judgment

14-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All fourteen physical text and image pages, SCR 788-801. Ayyangar J judgment pp 2-14 jointly decides Civil Appeal 107/1956 (recovery) and Petition 130/1958 under Article 32 (assessment), separately preserving costs. Source ends above p 14 rule; State of Bombay v Bandhan Ram Bhandani below excluded. Pending separate civil dissolution appeal is not a docket disposed of here. Printed March31/March15 assessment-date discrepancy retained.

Open cited source rendition

The assessment is dated 31 March 1951 at pp 1, 3 and 10, but 15 March 1951 at p 12. The inconsistency is preserved; no silent correction of the latter passage is made.

A sentence about the mill's admitted liability/deduction is repeated on p 11.

State of Bombay v Bandhan Ram Bhandani begins below the p 14 dividing rule and is excluded.

Frozen case-number metadata lists only Civil Appeal 107/1956; printed Petition130/1958 is freshly reconciled as a separate Supreme Court proceeding.

The separate civil dissolution appeal mentioned as pending is not one of the two units disposed of here.

STATUTORY SCOPE

Excess Profits Tax Act, 1940; Indian Income-tax Act, 1922 as incorporated and modified for excess-profits tax; 23(5)(b) (background income-tax assessment), 29, 44 (as modified under Excess Profits Tax Act section 21), 45-47, especially 46(1) and 46(2), 63

The retained Finance Act 2011 section 189 provides assessment as if firm dissolution/discontinuance had not occurred and joint and several liability, while section 188A addresses partners' liability for firm tax. These separately sourced provisions do not establish that the EPT service holding automatically governs a later notice.

No 2025 firm-dissolution, notice-service or recovery provision was independently verified for this note. No automatic mapping of the EPT business-unit scheme or modified 1922 section 44 is asserted.

The historical operative law is identified separately. Only the stated later versions and bounded passages were checked; applicability to a later tax year, transitional savings and comprehensive judicial history remain unverified.

Other provisions addressed: Excess Profits Tax Act, 1940, sections 8, 13, 14 and 21, including its proviso; Constitution, Articles 226 and 32

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment adopted except where expressly stated.

No later primary application of this specific EPT notice/recovery ruling has been verified. Approval of Pandu Rao and Bose is treatment of earlier cases within this judgment, not a finding about its own subsequent history.

Earlier cases discussed in the target judgment do not constitute subsequent history.

IDENTIFIED SOURCE LINKS

Income-tax Act,1961: bounded provision comparison

DOR-hosted Taxmann compilation labelled as amended by Finance Act2011 Only the identified statutory passages on these pages plus version p42. Not a current consolidated text, Gazette-original authentication, whole-Act or image review. Text pages read: 782-783.

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