

The Commissioner of Income-tax, Bombay City II v. Shri Sitaldas Tirathdas

Civil Appeal No. 528 of 1959 — Single Supreme Court civil appeal disposed of by the target judgment.

[1961] 2 SCR 634 | 1960-11-24

Maintenance paid under a personal obligation in an uncharged consent decree was application of the assessee's income, not diversion by overriding title before accrual.

Indian Income-tax Act, 1922 (regime identified by historical assessment years and section numbering) | 1922 Act: 66A(2) | 1922 Act: 9(1)(iv) (expressly inapplicable on facts)

3 Judges | J. L. Kapur | M. Hidayatullah | J. C. Shah

01 FACTS OF THE CASE

Sitaldas accepted the computation of income from property, investments and a firm, but claimed reductions of Rs. 1,350 and Rs. 18,000 for two assessment years. A March 1953 consent decree required monthly maintenance for his wife and children. It created no charge on his property or income. The tax authorities and Tribunal rejected the reductions as discharge of a personal obligation. The Bombay High Court allowed them, reasoning that an enforceable obligation could divert income despite the absence of a specific charge. Revenue appealed on a certificate.

Source: [SCR 635-636; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished Bejoy Singh Dudhuria, where the decree charged the taxpayer's resources and allocated income before it became his, from P. C. Mullick, where executors applied estate income after receiving it. Surveying family allowances, testamentary directions and charges, it emphasized the nature of the obligation rather than its mere enforceability. The decisive inquiry was whether the amount truly reached the assessee as his own income. Physical collection was not conclusive: a person might collect money solely for the beneficiary whose overriding entitlement prevented it from becoming the collector's income. Conversely, even a compulsory payment could remain application of income already belonging to the taxpayer. The Court did not undertake to decide the correctness of every cited decision on its particular facts.

Source: [SCR 637-643; judicial reasoning; opinion boundaries preserved](#)

03 JUDICIAL DECISION

The maintenance recipients obtained part of Sitaldas's income after it had become his. The decree imposed an obligation to pay but did not make him merely a collector of another person's income. The case therefore fell within application of income, not the overriding-title principle. Section 9(1)(iv) was expressly outside consideration because no property charge existed. The referred question had to be answered in the negative.

Source: [SCR 636-643; holding and expressed limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal allowed; High Court answer discharged. The claimed maintenance reductions were denied for both assessment years. Costs awarded in the Supreme Court and High Court.

Source: [SCR 643-643; operative disposition and costs](#)

05 AKHB REVIEW POINT

Trace legal entitlement at the point income arises. A decree, contract or other enforceable duty does not by itself establish diversion, and routing cash directly to another person does not settle beneficial ownership. Identify the source, the beneficiary's right and whether the taxpayer ever acquires the amount as income. This decision supplies that distinction; it does not establish a universal rule that every payment supported by a charge is deductible under every later statute.

Source: [SCR 642-643; editorial analysis based on the indicated reasoning](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: Income-tax Reference No. 15 of 1957

Relationship: Bombay High Court originating tax reference; judgment 20 September 1957

2.

Case numbers: Suit No. 102 of 1951

Relationship: Underlying maintenance suit; consent decree 11 March 1953, not the tax appeal disposed of

SOURCE & VERIFICATION

[Original reported Supreme Court judgment](#)

10-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 10 pages/SCR634-643 complete target; judicial opinion p 2-10 after headnote/caption. Full survey read with express reservation against deciding all cited authorities. No neighboring case.

[Open cited source rendition](#)

The underlying maintenance suit is separately identified and is not a Supreme Court appeal group.

Act-year attribution is contextual; the report principally names the Income-tax Act without printing 1922.

STATUTORY SCOPE

Indian Income-tax Act, 1922 (regime identified by historical assessment years and section numbering); 66A(2), 9(1)(iv) (expressly inapplicable on facts)

The Finance Act 2011 section 5 distinguishes income received by or on behalf of a person from income accruing or arising to that person. It supplies a later charging framework for an entitlement analysis, not an express statutory exemption for maintenance payments.

No corresponding 2025 provision was verified for the accrual/receipt and transfer-of-income provisions; no renumbering or present-law equivalence is asserted.

The operative historical law is identified separately. Only the stated later statutory versions and passages were checked; comprehensive subsequent history and applicability to a particular later tax year remain unverified.

LATER TREATMENT

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

No bounded later primary application of this overriding-title test has yet been verified. The survey within the 1960 judgment is earlier authority, not subsequent judicial treatment.

Earlier authorities discussed within the target judgment are not treated as later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: Section 5](#)

DOR-hosted Taxmann compilation, as amended by Finance Act 2011 Only identified statutory limbs on these pages, plus version page 42. Not a current consolidated text, Gazette-original authentication, whole-Act or image review. Only the named 2011 provisions are compared. Text pages read: 72-73.

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