

C. A. Abraham, Uppoottil, Kottayam v. The Income-tax Officer, Kottayam and Another

Civil Appeal No. 517 of 1958 — Single Supreme Court civil appeal disposed of by the target judgment.

[1961] 2 SCR 765 | 1960-11-29

Section 44 continued the assessment machinery, including section 28 concealment penalties, after the firm discontinued business; dissolution did not extinguish that liability.

Indian Income-tax Act, 1922; historical Travancore Income Tax Act also involved | 1922 Act: 28(1)(c) | 1922 Act: 44

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

01 FACTS OF THE CASE

Abraham and Thomas traded in food grains as an unregistered firm. Thomas died in October 1949, and Abraham filed the firm's returns for the relevant accounting years. The officer found transactions in fictitious names, omitted income and false loan credits. Assessments and penalty notices followed under the Indian and Travancore enactments. After unsuccessful appeals to the Appellate Assistant Commissioner, Abraham sought a writ, contending that no penalty could be imposed once the firm had dissolved. The Kerala High Court rejected that challenge.

Source: [SCR 766-768; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court construed section 44's extension of Chapter IV to a discontinued firm. 'Assessment' could mean income computation, tax determination or the entire statutory procedure; the chapter used it in the widest sense. Section 28 penalties formed part of that machinery, subject to their own jurisdictional conditions and discretionary quantum. The phrase 'so far as may be' excluded provisions inherently inapplicable to firms, rather than limiting the continuation to income computation. The Court declined to manufacture a statutory omission where the words already imposed continuing liability. It also rejected an analogy with partition of a Hindu family under section 25A because the statutory language differed, without deciding the family-penalty question.

Source: [SCR 768-772; judicial reasoning; opinion boundaries preserved](#)

03 JUDICIAL DECISION

The firm was treated as continuing for Chapter IV assessment purposes after discontinuance, and section 28 penalties could be imposed notwithstanding dissolution. The Court approved Mareddi Krishna Reddy and rejected the contrary later Full Bench view in Rayalaseema Oil Mills. It also held that an adequate Tribunal appeal should ordinarily have been pursued. Because the High Court had entertained the writ and granted leave, the Supreme Court decided the merits rather than dismissing the appeal at the threshold.

Source: [SCR 767-772; holding and expressed limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Abraham's appeal dismissed. The challenge to post-dissolution concealment penalties failed. Dismissal with costs.

Source: [SCR 772-772; operative disposition and costs](#)

05 AKHB REVIEW POINT

Separate the continued existence of assessment machinery from proof of a particular penalty's elements. The Court's description of penalty as additional tax served the section 44 construction; it does not erase the statutory safeguards for imposing it. Preserve the mixed Travancore/central facts and the actual alternative-remedy posture. A modern dissolution or succession dispute requires the applicable continuation provision and penalty regime, not a general assumption that every former partner remains liable for every sanction.

Source: [SCR 767-771; editorial analysis based on the indicated reasoning](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: O. P. No. 215 of 1957

Relationship: Kerala High Court writ proceeding; judgment 31 October 1957

SOURCE & VERIFICATION

[Original reported Supreme Court judgment](#)

8-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 8 pages/SCR765-772; caption/headnote p 1-2, Shah J opinion p 2-8 through dismissal/costs, no adjacent case. Mixed Travancore and Indian tax assessments preserved. Printed assessment/penalty year discrepancy p 2 versus p 3 not reconciled.

[Open cited source rendition](#)

p 2 gives central assessment/notice years 1949-50 and 1950-51; p 3 prints penalty years 1950-51 and 1951-52. Neither pair is silently corrected.

The central legal holding concerns sections 28/44 of the 1922 Act; the narrative also includes the Travancore assessment and section 41 notice.

STATUTORY SCOPE

Indian Income-tax Act, 1922; historical Travancore Income Tax Act also involved; 28(1)(c), 44

The Finance Act 2011 section 189 expressly continues assessment after discontinuance or dissolution, including penalty provisions, and sets out partner/legal-representative liability. This express later machinery must be applied on its terms rather than treating the 1922 description of penalty as a universal rule.

No corresponding 2025 provision was verified for the dissolved-firm liability 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.

Other provisions addressed: Travancore Income Tax Act, section 41; Constitution, Article 226

LATER TREATMENT

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

Later judicial treatment of the description of penalty as additional tax was not verified. The separately stated statutory comparison is limited to the checked Finance Act 2011 version of section 189; no inference about modern penalty burdens is adopted.

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

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: Section 189](#)

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: 782-783.

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