

Tulsidas Kilachand v. The Commissioner of Income-tax, Bombay City I

Civil Appeals Nos. 134 to 137 of 1959 — Four Supreme Court special-leave appeals by four assesseees; common judgment, Tulsidas facts illustrative and connected proceedings (full list below)

[1961] 3 SCR 351 | 1961-01-03

A declaration by which the husband held shares as trustee for his wife attracted section 16(3)(b) of the 1922 Act; love and affection was not adequate consideration, and the third proviso to 16(1)(c) did not protect the dividends.

1922 Act: 16(1)(c), third proviso | 1922 Act: 16(3)(a)(iii) | 1922 Act: 16(3)(b) | 1922 Act: 66(1)

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

01 FACTS OF THE CASE

Four assesseees challenged inclusion of trust income under the Indian Income-tax Act, 1922. In the illustrative assessment for 1952-53, Tulsidas declared that he held shares in two companies on an irrevocable trust to pay their income to his wife for seven years or her earlier death. The account-year dividends were Rs. 30,404. The Tribunal and Bombay High Court rejected his claim that the third proviso to section 16(1)(c) excluded them from his total income.

Source: [SCR 352-353: common appeals, trust terms, amount and reference.](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished an assignment of future dividends while retaining shares from a declaration that the shares themselves were held on trust. The latter changed the capacity in which the husband held the assets. Although no formal conveyance to himself was necessary, the law treated the declaration as a transfer from his personal capacity to his capacity as trustee. The phrase "any person" in section 16(3)(b) included that distinct capacity. The special wife-benefit inclusion therefore applied independently of the asserted protection for an irrevocable settlement. The Court also distinguished adequate consideration from merely good consideration: natural love and affection did not satisfy the statutory requirement.

Source: [SCR 354-358: quoted provisions, source assignment, trustee capacity and consideration.](#)

03 JUDICIAL DECISION

The shares had been transferred to the husband-trustee for his wife's benefit without adequate consideration. Section 16(3)(b) governed the case. The Court upheld the High Court's affirmative answer that the dividend income was includible in the husband's total income. It did not rest the result simply on a direct transfer to the wife under section 16(3)(a)(iii).

Source: [SCR 358: section 16\(3\)\(b\) and affirmative answer.](#)

04 OUTCOME / IN WHOSE FAVOUR

All four appeals dismissed. The challenged inclusion of the trust dividends remained effective. Dismissed with costs; one hearing fee.

Source: [SCR 358 last two paragraphs: all appeals, costs and one hearing fee.](#)

05 AKHB REVIEW POINT

Analyse precisely what the instrument transfers and the capacity in which each asset is held. Irrevocability alone does not answer a separate spouse-clubbing provision. The distinction from Provat Kumar Mitter depends on the disposition of the shares, not merely the destination of dividends. Any later application requires the operative statute and its exceptions; this judgment supplies no general exemption for seven-year family trusts.

Source: [SCR 356-358: instrument/capacity analysis and special inclusion.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeals Nos. 134 to 137 of 1959 — Four Supreme Court special-leave appeals by four assessees; common judgment, Tulsidas facts illustrative / Income Tax Reference No. 14 of 1957 — Bombay High Court originating reference; order 20 September 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 eight physical pages/SCR 351-358, caption and headnote through Hidayatullah J opinion and final appeals dismissal/costs. No neighboring case content. Deed date printed 5 March in opening headnote/reference question but 15 March in held headnote; retain conflict without choosing a corrected deed date.

Open cited source rendition

The opening headnote and referred question print 5 March 1951 for the deed; the held headnote prints 15 March 1951. The note does not choose a corrected date.

The Provat footnote at SCR 355 prints [1960] 3 SCR 37, whereas the separately read target report is [1961] 3 SCR 37.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 16(1)(c), third proviso, 16(3)(a)(iii), 16(3)(b), 66(1)

Displayed 2025 section 64(1)(vii) covers income from assets transferred without adequate consideration for a spouse's immediate or deferred benefit. Sections 61-63 separately govern revocable transfers, exceptions and definitions; 62(1)(ii) expressly retains a pre-1 April 1961 transfer branch exceeding six years. Do not collapse these distinct rules into the 1922 proviso.

2025 section 99(1)(d) contains the spouse-benefit transfer rule; 97-98 address revocable transfers and definitions. Section 97 does not reproduce the express pre-April 1961 six-year branch seen in 1961 section 62(1)(ii). These are bounded textual comparisons, not a ruling on this old trust under either later Act.

The judgment applies the historical 1922 Act. The 2025 Act generally commenced 1 April 2026. Selected section 536(1), (2)(a)-(e), (3)-(4) preserve earlier operation and specified proceedings. Only identified versions and passages were checked; applicability to a current assessment requires its tax year, savings and full governing law.

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted; this is not a finding that later treatment is absent.

Comprehensive subsequent history and present-law applicability remain unverified.

Primary authorities cited within this judgment are not later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: section 61](#)

Official Income-tax Act, 1961 page displayed year 2025 Web 64–66; header/version read. Exact selected text personally read; no raw HTML/PDF, PDF images, whole-Act review or comprehensive present-law certification. Section 99(2) formula not relied on.

[Income-tax Act, 1961: section 62](#)

Official Income-tax Act, 1961 page displayed year 2025 Web 63–72, complete section. Exact selected text personally read; no raw HTML/PDF, PDF images, whole-Act review or comprehensive present-law certification. Section 99(2) formula not relied on.

[Income-tax Act, 1961: section 63](#)

Official Income-tax Act, 1961 page displayed year 2025 Web 63–75, complete definitions. Exact selected text personally read; no raw HTML/PDF, PDF images, whole-Act review or comprehensive present-law certification. Section 99(2) formula not relied on.

[Income-tax Act, 1961: section 64](#)

Official Income-tax Act, 1961 page displayed year 2025 Web 63–117; comparison specifically 64(1)(vii) at 75. Exact selected text personally read; no raw HTML/PDF, PDF images, whole-Act review or comprehensive present-law certification. Section 99(2) formula not relied on.

[Income-tax Act, 2025: 97–99\(1\)\(d\)](#)

As amended by Finance Act, 2026 Web 6791–6838, including cross-page 98. Exact selected text personally read; no raw HTML/PDF, PDF images, whole-Act review or comprehensive present-law certification. Section 99(2) formula not relied on.

[Income-tax Act, 2025: commencement and selected savings](#)

As amended by Finance Act, 2026 Title/version and section1(1)–(3), web0–13; section536(1),(2)(a)–(e), web24385–24408; section536(3)–(4), web24597–24601. Selected savings only, not full section536. Only stated official web-extracted text personally read. No original HTML/PDF integrity, PDF images, entire Act or comprehensive current-law claim.

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