

Mohamed Noorullah, Representing the Estate of Late Khan Sahib Mohd. Oomer Sahib v. The Commissioner of Income-tax, Madras

Civil Appeals Nos. 303 to 307 of 1960 — Five Supreme Court special-leave appeals and connected proceedings (full list below)

[1961] 3 SCR 515 | 1961-01-18

Co-heirs who consented to continue an indivisible business as one enterprise with unified control constituted an association of persons; a pending partition suit did not itself undo that association.

1922 Act: 3 | 1922 Act: 9(3) | 1922 Act: 66(1)

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

01 FACTS OF THE CASE

After Oomer Sahib died in December 1942, his heirs continued the manufacture and sale of Spade Clover beedies, initially through family representatives and later through court-appointed joint receivers. The business remained intact until November 1946, when Noorullah bought it at an auction between the co-heirs. For AYs 1944-45 to 1947-48, the business profits were assessed in the receivers' hands as income of an association of persons. Noorullah sought separate taxation of each heir's share, relying on defined inheritance shares, partition proceedings and his objection to the receivership application.

Source: [SCR516-518: estate, receivers and consent findings.](#)

02 DISCUSSION BY THE HON'BLE COURT

Kapur J treated the Tribunal's findings of consent and continuity as decisive. Noorullah's objection concerned the individuals appointed as receivers, not cessation of the business or unified control. The heirs all desired continuation of the branded business as one unit. Following Indira Balkrishna, the Court applied the test of persons joining in a common income-producing enterprise. Merely inheriting property did not automatically create an association; the conduct and intention accompanying continued operation mattered.

Source: [SCR518-522: association test and prior authorities.](#)

03 JUDICIAL DECISION

The business income was properly assessed as association income notwithstanding litigation over administration or partition. The Court disapproved S.C. Mazumdar insofar as its business reasoning conflicted with Indira Balkrishna, while distinguishing other authorities on their facts. Property income already assessed under section 9(3) was not in dispute, so the judgment did not decide the treatment of all receipts of the estate.

Source: [SCR521-523: consensual business and limited disapproval.](#)

04 OUTCOME / IN WHOSE FAVOUR

All five assessee appeals dismissed. The association-of-persons assessments of the continuing business were upheld. Costs; one hearing fee.

Source: [SCR523 lowerhalf: dismissal, costs, one fee.](#)

05 AKHB REVIEW POINT

Look for evidence of a common enterprise, consent and continuing control; inheritance or appointment of a receiver alone is insufficient to explain this result. Keep business receipts separate from co-owned property income, and check later statutory definitions and representative-assessment provisions before applying the old rule.

Source: [SCR517 property carve-out; 520 inheritance; 523 unified business.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeals Nos. 303 to 307 of 1960 — Five Supreme Court special-leave appeals / Case Referred No. 111 of 1953 — Madras High Court originating tax reference / Application No. 1162 of 1943 — Receivership application identified in quoted High Court findings; not a separate Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

9-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 physical text/images SCR515–523. Caption/headnote physical 1; headnote end physical 2 top; Kapur opinion begins physical 2 ~42% through physical 9 ~76%, appeals dismissed with costs, one hearing fee. No neighbors. Printed receiver appointment March 17 at 516 contrasts May 17 at 517/headnote515 and tribunal quote running through March 24 at 518; no silent chronological correction. Unitary consensual business, AOP taxation; property9(3) income undisputed.

Open cited source rendition

Receiver appointment is printed 17 March 1943 at SCR 516 but 17 May 1943 at SCR 517/headnote; Tribunal quotation at SCR 518 refers to family operation through 24 March 1943. The note avoids choosing an unverified corrected appointment date.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 3, 9(3), 66(1)

Displayed 2025 section 2(31) includes an association of persons or body of individuals, whether incorporated or not. Its Explanation treats specified bodies as persons whether or not formed with the object of deriving income. Thus the historical income-purpose language must not be applied without the later definition.

2025 section 2(77) similarly includes associations and bodies of individuals and its final qualification removes income-earning purpose as a necessary condition for personhood. It does not itself answer every factual question whether particular co-heirs form an association.

The holding applies the historical 1922 Act. The 2025 Act generally commences 1 April 2026; selected 536(1), (2)(a)–(e), (3)–(4) preserve earlier operation and specified proceedings. Only identified versions/passages were checked; no complete savings, amendment-history or present-case applicability assessment is claimed.

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: 2\(31\)](#)

Displayed 2025 Web 463–475, complete 2(31)/Explanation; version header read. Exact stated web text personally read, including cross-page continuations. No original HTML/PDF or images, whole-Act or automatic case-applicability claim.

[Income-tax Act, 2025: 2\(77\)](#)

As amended by Finance Act, 2026 Web 721–731, complete 2(77) including cross-page 726. Exact stated web text personally read, including cross-page continuations. No original HTML/PDF or images, whole-Act or automatic case-applicability claim.

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

As amended by Finance Act, 2026 1(1)–(3) web 0–13; 536(1), (2) intro/(a)–(e) web 24385–24408; 536(3)–(4) 24597–24601. Not full 536. Exact stated web text personally read, including cross-page continuations. No original HTML/PDF or images, whole-Act or automatic case-applicability claim.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. It is not legal or tax advice. Verify the original judgment, applicable statutory version and subsequent judicial treatment before relying on it. The AKHB Review Point is editorial analysis, not part of the Court's judgment.