

Commissioner of Income-tax, Hyderabad v. Sri Rajareddy Mallaram

Civil Appeal No. 290 of 1963

[1964] 5 SCR 508 | 1963-11-20

Could an assessment made after dissolution of an association of persons, following notice to one member, bind another member who had not been personally served?

Indian Income-tax Act, 1922: sections 22(1), 22(4), 23(4), 27, 34, 44 and 63(2)

Three-judge bench; unanimous judgment delivered by J. C. Shah, J. | A. K. Sarkar, J. | M. Hidayatullah, J. | J. C. Shah, J.

Assessment years: Fasli year 1358 (1 October 1948 to 30 September 1949); assessment year not expressly stated in the report

Historical section 44 setting

The Court construed the Indian Income-tax Act, 1922 and quoted section 44 as it stood before amendment with effect from 1 April 1958. Do not transplant the result to a present service, representative-liability or recovery question without checking the governing current statute.

Referred-question limit

The Court refused to consider whether Baba Gowd was the proper person for service under section 63(2), because that contention had not arisen from the Tribunal's order and was not referred. The case proceeded on the footing that service on him was proper.

Source boundary

PDF p.1 includes the end of an unrelated arbitration decision before this tax case begins. That adjacent text is not part of the Rajareddy Mallaram judgment.

No current-law clearance

Later treatment and successor-law applicability were not comprehensively checked. This note does not certify the position under the Income-tax Act, 1961 or the Income-tax Act, 2025.

01 FACTS OF THE CASE

Baba Gowd, P. V. Rajareddy and Rajareddy Mallaram carried on liquor-contract business as the Nizamabad Group Liquor Shops during Fasli year 1358. When the contracts ended, the business was discontinued and the association dissolved. No return was filed. The Income-tax Officer served a section 34 notice on Baba Gowd, who did not comply, and assessed the association under section 23(4) at taxable income of Rs.51,000 with tax of Rs.8,826-14-0. After recovery from Baba Gowd failed, a demand was issued to Rajareddy Mallaram. The Appellate Assistant Commissioner ordered cancellation and fresh assessment, but the Tribunal held the existing assessment valid. On reference, the Andhra Pradesh High Court held the assessment invalid and Mallaram not liable (PDF pp.3-5; SCR pp.510-512).

Source: [Primary judgment: facts and referred questions](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read the pre-1958 section 44 as continuing the association's personality for assessment despite dissolution or discontinuance. Under Chapter IV, the income could be assessed either in the association as the unit or separately in each member's hands for that member's share; the Act did not create a collective assessment of members limited to those personally served. Consequently, there could be no partial association assessment confined to one noticed member. The words 'tax payable' referred to the tax the association would have been assessed to pay but for dissolution, and notice to the appropriate person under section 63(2) was sufficient for assessment of the continued statutory personality (PDF pp.6-9; SCR pp.513-516). The respondent's further objection that Baba Gowd was not the proper person for section 63(2) service was outside the Tribunal's order and the questions referred, so the Court did not decide it and proceeded on proper service (PDF p.9; SCR p.516).

Source: [Primary judgment: section 44 reasoning](#)

03 JUDICIAL DECISION

The Supreme Court answered the first referred question in the negative: the section 23(4) assessment was not bad in law on the grounds considered. It answered the second question by holding the applicant liable for the tax payable under that assessment. The Revenue's appeal was allowed, and the respondent was directed to pay costs in the Supreme Court and the High Court (PDF p.9; SCR p.516).

Source: [Primary judgment: operative decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue: the historical assessment of the dissolved association remained valid on the referred questions, Rajareddy Mallaram was liable for the assessed tax, and the Revenue's appeal was allowed with costs. This was not a holding that any notice to any former member is always sufficient: the unreferenced challenge to Baba Gowd's status as the proper section 63(2) recipient was not adjudicated (PDF p.9; SCR p.516).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: in a dissolved-entity assessment, separate the statutory continuation of the taxable unit from personal service and recovery questions. Identify whether the governing provision continues the entity for assessment, who is the prescribed recipient for service, and whether former members bear joint and several liability. Also preserve the reference boundary: this ruling assumed proper service on Baba Gowd because the contrary point was not referred. Use the decision only in its historical 1922 Act setting unless the equivalent successor provisions and later treatment are independently verified.

Source: [Primary judgment: basis for AKHB review point](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full nine-page catalogue asset read in page-preserving text and visually inspected. PDF p.1 begins with the preceding Jivarajbhai Ujamshi Sheth disposition before the Rajareddy Mallaram title and headnote. The judicial opinion spans PDF pp.3-9 / SCR pp.510-516. Identity, date, docket, bench, author, statutory text and operative relief were verified. Exact source-hash, asset-ID, SCR-citation, docket, party and title searches found no same-judgment publication or disposition.

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Catalogue source 1964_5_508_516: SHA-256

e75fe826b48fc7cdcf40c78abe40fd87e84a1c13691716b657026ef02be7525a, 298642 bytes and nine pages; exact hash and page count verified.

All nine pages were read in page-preserving text and visually inspected; the bounded judicial opinion is PDF pp.3-9 / SCR pp.510-516.

No exact source-hash, asset-ID, SCR-citation, docket, party-name or title match was found in the current published corpus or source-disposition register.

The source verifies identity, bench, statutory setting, reasoning and operative order; no later-treatment or current-law search is represented.

STATUTORY SCOPE

Historical ruling on the Indian Income-tax Act, 1922 and the pre-1 April 1958 text of section 44. It is not a current-law ruling on assessment of discontinued entities, service, representative liability or recovery under the Income-tax Act, 1961 or the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.