

Commissioner of Income-tax, Gujarat v. Keshavlal Lallubhai Patel

Civil Appeal No. 1022 of 1963

[1965] 2 SCR 99 | 1964-11-09

Income-tax Act, 1922 section 16(3): a genuine Hindu-family partition following blending was not an indirect transfer to the assessee's wife or minor son.

Indian Income-tax Act, 1922: sections 16(1)(c), 16(3)(a)(iii), 16(3)(a)(iv) and 66A(2)

3-judge bench | K. Subba Rao, J. | J. C. Shah, J. | S. M. Sikri, J.

Assessment years: 1952-53

Historical clubbing provision

The holding turns on the strict language of section 16(3) of the 1922 Act and the legal character of a genuine Hindu-family partition; current statutory consequences require separate verification.

Blending question left open

The Court assumed, without deciding, that throwing self-acquired property into the family hotchpotch could be a transfer. Its decisive holding was that the subsequent partition was not a transfer in the strict sense.

01 FACTS OF THE CASE

The assessee, previously assessed as an individual, declared on 18 April 1951 that his self-acquired properties were thrown into the common hotchpotch of the Hindu undivided family comprising himself and his two sons. An oral partition followed on 12 June 1951, with properties allotted among family members, including the assessee's wife and minor son. For AY 1952-53 the tax authorities treated the blending followed by partition as an indirect transfer to the wife and minor son under section 16(3). The Gujarat High Court answered the referred question for the assessee, and the Revenue appealed.

Source: [Blending, partition and reference history: SCR pp.101-102 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 16(3)(a)(iii) and (iv) required a transfer of assets, directly or indirectly, by the individual to the wife or minor child. Comparing section 16(1)(c), which separately named settlements, dispositions and arrangements, the Court read transfer in its strict sense because section 16(3) created artificial income. The word indirectly captured indirect transfers but did not eliminate the need for an underlying transfer. Unlike the cross-gifts in C. M. Kothari, a Hindu-family partition converted joint enjoyment into several enjoyment of antecedent titles and involved no conveyance of a new title. The Court assumed without deciding that blending itself might be a transfer, but held the later partition was not.

Source: [Strict-transfer and partition reasoning: SCR pp.103-105 / PDF pp.4-6](#)

03 JUDICIAL DECISION

The Court held that partition of the joint Hindu family property was not a transfer of assets to the wife or minor son within section 16(3)(a)(iii) or (iv). It dismissed the Revenue's appeal with costs.

Source: [Holding and operative dismissal: SCR p.105 / PDF p.6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee. The Revenue could not club the disputed income through the asserted partition-as-indirect-transfer route on these facts. The Court did not decide whether the initial act of blending was itself a transfer.

Source: [Assessee outcome and limits: SCR pp.104-105 / PDF pp.5-6](#)

05 AKHB REVIEW POINT

AKHB analysis: distinguish the legal steps in a family-property reorganisation. Blending, partition and later income attribution are separate events and should not be collapsed into one assumed transfer. Preserve the declaration, partition instrument, antecedent-title evidence and allocation trail, and test each step under the currently applicable clubbing and HUF provisions.

Source: [AKHB analysis based on the transfer/partition distinction](#)

SOURCE & VERIFICATION

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

Full 6-page SCR source file read; the editorial headnote on PDF p.1 was distinguished from Sikri J.'s judicial opinion on PDF pp.2-6.

[Open cited source rendition](#)

Exact 206,424-byte source, SHA-256 and six-page count match catalogue asset 1965_2_100_105.

The report verifies Civil Appeal No. 1022 of 1963, decision date 9 November 1964 and the three-member bench.

The companion Stremann report identifies the citation as [1965] 2 SCR 99; the supplied source file begins with the continuing editorial headnote and runs through SCR p.105.

The genuineness of the transactions was not disputed before the Court.

STATUTORY SCOPE

This decision construes the clubbing provisions of the Indian Income-tax Act, 1922 and Hindu-family partition doctrine on the facts of AY 1952-53. Present consequences under the Income-tax Act, 1961, including current clubbing and HUF provisions, have not been checked.

LATER TREATMENT

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

AI DISCLOSURE

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