

Commissioner of Income-tax, Madras v. M. K. Stremann

Civil Appeal No. 1105 of 1963

[1965] 2 SCR 106 | 1964-11-09

Income-tax Act, 1922: an unequivocal partition deed evidenced antecedent blending of self-acquired property, and the resulting partition was not an indirect transfer to minor children.

Indian Income-tax Act, 1922: sections 16(3)(a)(iv) and 25A

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

Assessment years: 1953-54

Evidence-specific blending finding

The result rested on the deed's unequivocal declaration and the accepted genuineness of the transaction; it is not a general rule that every recital proves earlier blending.

Narrow appellate scope

The assessee did not appeal the answer to question 1. The Supreme Court dealt with whether the deed and partition attracted section 16(3)(a)(iv).

01 FACTS OF THE CASE

The assessee inherited a house and other assets from his father and later held an agency business in his individual capacity. He maintained one set of accounts for the agency income and joint-family property income. On 19 December 1952 he executed a partition deed with his two minor sons and minor daughter, represented by their mother, and sought a section 25A order for AY 1953-54. The officer treated the self-acquired assets as individually owned and the deed as a donation or indirect transfer to the minors; the appellate authorities agreed. On reference, the Madras High Court held against the assessee on question 1 but held that the deed did not attract section 16(3)(a)(iv). The Revenue appealed the latter conclusion.

Source: [Property, deed, assessments and reference questions: SCR pp.107-109 / PDF pp.2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The deed recited a continuing course of blending the assessee's earnings and inherited assets and stated that the properties available for partition were joint-family property. The Court treated the instructions for and execution of that carefully drafted deed as an unequivocal declaration: at least immediately before partition on 19 December 1952, the self-acquired properties became impressed with joint-family character. The interval could be short; the deed evidenced the pre-existing fact of blending before the partition took effect. After partition, the allotted properties were held in severalty. Following Keshavlal Lallubhai, the partition did not itself amount to a direct or indirect transfer to the minor children under section 16(3)(a)(iv).

Source: [Deed, antecedent blending and partition reasoning: SCR pp.109-111 / PDF pp.4-6](#)

03 JUDICIAL DECISION

The Court agreed with the High Court that the assets had become joint-family property immediately antecedent to the partition and that the partition caused no direct or indirect transfer by the assessee to his minor children within section 16(3)(a)(iv). The Revenue's appeal was dismissed with costs.

Source: [Holding and dismissal: SCR p.111 / PDF p.6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee on the appealed section 16(3)(a)(iv) issue. The Revenue's attempted transfer characterization failed. The separate High Court answer that the assets remained individual until 19 December 1952 was not under appeal by the assessee.

Source: [Assessee outcome on the appealed issue: SCR p.111 / PDF p.6](#)

05 AKHB REVIEW POINT

AKHB analysis: a family arrangement should record, in chronological order, the owner's unequivocal act of blending, the property covered and the later partition. The evidentiary quality and genuineness of the declaration matter; a recital should not be treated as automatically conclusive. Confirm the present statutory recognition and clubbing consequences before relying on this 1922 Act result.

Source: [AKHB analysis based on the declaration and sequence findings](#)

SOURCE & VERIFICATION

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

Full 6-page SCR report read; the editorial headnote on PDF pp.1-2 was distinguished from Sikri J.'s judicial opinion beginning on PDF p.2 and continuing through PDF p.6.

[Open cited source rendition](#)

Exact 209,690-byte source, SHA-256 and six-page count match catalogue asset 1965_2_106_111.

The report verifies Civil Appeal No. 1105 of 1963, decision date 9 November 1964 and the three-member bench.

The judicial text records two minor sons and a minor daughter, all represented by their mother in the deed.

The Court followed its same-day decision in Keshavlal Lallubhai on the non-transfer character of partition.

STATUTORY SCOPE

This decision applies sections 16(3)(a)(iv) and 25A of the Indian Income-tax Act, 1922 to a 1952 Hindu-family arrangement. Current HUF recognition, partition and clubbing consequences under the Income-tax Act, 1961 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.

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