

Additional Income-tax Officer, Cuddapah v. A. Thimmayya and Others

Civil Appeals Nos. 1019-1020 of 1963

[1965] 2 SCR 91 | 1964-11-09

Hindu undivided family partition under section 25A: a later recognition order could not reopen final assessments, and without timely apportionment the members were not personally liable for the family's tax.

Indian Income-tax Act, 1922: sections 14(1), 23, 25A(1), 25A(2), 25A(3) and 46(5) | Constitution of India: Article 226

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

Assessment years: 1941-42, 1942-43, 1944-45, 1945-46, 1946-47

Result affirmed for different reasons

The Court held that the High Court was wrong to treat the later section 25A(1) order as reopening final assessments, but still dismissed Revenue's appeals because personal liability had not arisen.

Recovery limited to family property

Without a section 25A(1) order recorded before the assessments and consequential section 25A(2) apportionment, the department could proceed against family property, not the members' later salaries.

01 FACTS OF THE CASE

Krishnappa and his sons Thimmayya and Venkatanarsu constituted a Hindu undivided family carrying on a mining business. The family disrupted in 1946 and its business later passed through a partnership to a private company that employed the sons. Assessments for five years were pending when Venkatanarsu claimed a partition on 20 May 1946. The officer did not decide that claim before making assessments between September 1948 and November 1950, which produced aggregate tax of Rs.65,750 and became final after appeals. On 30 June 1952 the officer recorded that partition had occurred on 2 November 1946. In 1958 he invoked section 46(5) to attach the sons' salaries. Their writ petitions succeeded in the High Court, which considered apportionment under section 25A(2) necessary after the retrospective partition order.

Source: [Family disruption, assessments, later partition order and salary attachment: SCR pp.92-93 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 25A deemed a previously assessed Hindu undivided family to continue in that status unless a qualifying partition order was recorded. If a partition claim was made during assessment, the officer had to inquire after notice; after recognition, he was still to assess the family income as if no partition occurred and then apportion tax, with members jointly and severally liable. If the claim was omitted, rejected or inadvertently left undecided, jurisdiction to assess the family continued and any error had to be corrected only through statutory procedure. The 1952 recognition order supplied no machinery for reopening the final assessments already confirmed by the Tribunal. Ignoring that later order left the assessments against the family intact, but without pre-assessment recognition and consequential apportionment the proviso creating personal joint-and-several liability had never operated.

Source: [Section 25A text and statutory scheme: SCR pp.94-96 / PDF pp.4-6](#); [Finality of assessments and absence of personal liability: SCR pp.97-98 / PDF pp.7-8](#)

03 JUDICIAL DECISION

The Supreme Court held that the High Court erred in treating the post-assessment section 25A(1) order as reopening assessments that had become final. Nevertheless, Revenue could not attach Thimmayya's and Venkatanarsu's personal salaries: absent a partition order recorded before assessment and apportionment under section 25A(2), liability remained against the Hindu undivided family's property. The High Court's orders were confirmed and both appeals dismissed with costs, with one hearing fee.

Source: [Finality holding and operative restriction on personal recovery: SCR pp.97-99 / PDF pp.7-9](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the former HUF members on recovery. Revenue's appeals were dismissed and their personal salaries could not be attached, but the family assessments themselves were not reopened or annulled; recovery remained available against any property of the Hindu undivided family.

Source: [High Court order confirmed and appeals dismissed: SCR p.99 / PDF p.9](#)

05 AKHB REVIEW POINT

AKHB analysis: keep three questions separate in an HUF partition file: whether a partition was claimed and recognised at the statutorily required stage, whether an assessment has attained finality, and which assets or persons may answer the resulting demand. A favorable recovery ruling does not erase the assessment. For current matters, map each issue to the governing successor provisions and recovery machinery before using this historical authority.

Source: [AKHB analysis based on the finality and recovery distinction](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 9-page SCR report read and visually checked. The editorial headnote on PDF p.1 was distinguished from Shah J.'s unnumbered judgment beginning on PDF p.2 (SCR p.92) and ending on PDF p.9 (SCR p.99).

Open cited source rendition

Exact source bytes, SHA-256 and 9-page count match catalogue asset 1965_2_91_99; every page was read as extracted text and inspected as a rendered image.

The judicial text verifies Civil Appeals Nos. 1019-1020 of 1963, five stated assessment years, the three-member bench, the finality ruling and the limited recovery disposition.

No published AKHB record with this party identity, case numbers or source asset was found; later records citing A. Thimmayya are not duplicates of this judgment.

STATUTORY SCOPE

The decision construes section 25A of the repealed Indian Income-tax Act, 1922 and the associated recovery machinery. Later HUF assessment and partition provisions must be analysed under the applicable statute; this note gives no current-law clearance.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive later treatment of section 25A, successor HUF-partition provisions and recovery law has not been checked; no current-law or citator clearance is represented.

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