

Commissioner of Income-tax, Madras v. Managing Trustees, Nagore Durgha, Nagore

Civil Appeals Nos. 213 and 214 of 1964

[1965] 3 SCR 659 | 1965-04-08

Representative assessment of wakf income: managers receiving surplus for beneficiaries with definite shares fell within section 41 despite questions about technical vesting.

Indian Income-tax Act, 1922: sections 41 and 66(1) | Mussalman Wakf Validating Act, 1913 (referenced in section 41)

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

Assessment years: 1953-54, 1954-55

Representative assessment, not exemption

The decision addressed how surplus should be assessed through managers for beneficiaries with definite shares. It did not hold that the surplus was exempt from tax.

Specific wakf scheme and repealed provision

The result depended on section 41 of the 1922 Act, Muslim wakf principles and clauses of the 1955 court scheme; modern application requires independent review.

01 FACTS OF THE CASE

A 1955 Madras High Court scheme placed hereditary management of Nagore Durgha and its endowed properties in eight Nattamaigars, who elected a managing trustee. After Durgha expenses, annual surplus was allocated among approximately 640 kasupangudars - descendants of the saint's foster son - in definite shares. For AYs 1953-54 and 1954-55 the officer assessed the surplus in the managing trustee's hands as an association of persons. The appellate authorities agreed, but the Madras High Court held that section 41 applied because the managing trustee received the surplus on behalf of the beneficiaries. Revenue argued that vesting in trustees meant receipt in their own right.

Source: [Court scheme, beneficiaries, assessments and issue: SCR pp.660-662 / PDF pp.2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 41 covered specified receivers, managers and trustees entitled to receive income on behalf of another and taxed them in the same manner and amount as the beneficiary. The Court rejected technical vesting as the controlling test: some listed persons held title and others did not, but all managed income for others without beneficial interest. Under Muslim law, wakf property vests in the Almighty and a mutawalli is a manager, not an English-law trustee. The Nattamaigars accordingly received and held the post-expense surplus on behalf of kasupangudars in definite shares. Clause 3 of the court scheme vested management and administration, not the Durgha properties themselves; election of the managing trustee under the scheme also satisfied the court-order connection.

Source: [Section 41 and rejection of technical vesting: SCR pp.662-663 / PDF pp.4-5](#); [Scheme vested management, not property: SCR p.664 / PDF p.6](#)

03 JUDICIAL DECISION

The Court held that section 41 governed the surplus held for kasupangudars and that the High Court had correctly answered the reference in the affirmative for the assessee. Revenue's appeals were dismissed with costs and one hearing fee.

Source: [Section 41 conclusion and appeals dismissed: SCR p.664 / PDF p.6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee on the method of assessment. The managing trustee held surplus for beneficiaries in definite shares and had to be assessed representatively under section 41, rather than as an association of persons in the manner adopted by the officer.

Source: [Representative-assessment outcome: SCR pp.663-664 / PDF pp.5-6](#)

05 AKHB REVIEW POINT

AKHB analysis: distinguish three questions in entity and trust assessments - who legally owns or is deemed to own property, who manages or receives income for another, and whether beneficiary shares are determinate. Preserve the governing deed or court scheme and separate gross income used for institutional expenses from distributable surplus. For any present filing, verify the current representative-assessment provisions, applicable wakf law and later authorities.

Source: [AKHB analysis based on representative capacity and scheme construction](#)

SOURCE & VERIFICATION

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

Full 6-page SCR report read and visually checked. The editorial headnote on PDF pp.1-2 was distinguished from Subba Rao J.'s unnumbered judgment beginning on PDF p.2 and continuing through PDF p.6.

Open cited source rendition

Exact source bytes, SHA-256 and 6-page count match catalogue asset 1965_3_659_664; every page was read as extracted text and inspected as a rendered image.

The judicial text verifies Civil Appeals Nos. 213 and 214, the three-member bench, AYs 1953-54 and 1954-55, the limited surplus-income issue and dismissal of Revenue's appeals with costs and one hearing fee.

The SCR jurisdiction line prints 'of 64'; the case number is normalized as 'of 1964' without altering the underlying appeal numbers. No published AKHB duplicate by party identity, appeal numbers or source asset was found.

STATUTORY SCOPE

This decision concerns representative assessment under section 41 of the repealed Indian Income-tax Act, 1922 and the legal character of managers of a Muslim wakf under a specific court scheme. It is not a general tax exemption for wakfs or current-law clearance.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive later treatment of representative assessment, wakf managers and current statutory provisions has not been checked; no current-law or citator clearance is represented.

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