

Commissioner of Income-tax, Punjab, Patiala v. R. B. Jodha Mal Kuthiala

Civil Appeal No. 95 of 1964

[1966] 2 SCR 645 | 1965-11-19

Section 25(4) succession relief: whether a new partnership carrying on a running timber business was in existence at the precise commencement of the 1939 amendment.

Indian Income-tax Act, 1922: sections 25(3), 25(4), 66(2) | Indian Income-tax (Amendment) Act, 1939 (Act 7 of 1939) | General Clauses Act, 1897: section 5(3)

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

Assessment years: 1943-44

Obsolete transitional relief

Section 25(4) relief depended on a business taxed under the 1918 Act and continuity at the commencement of the 1939 amendment. The ruling should not be presented as a current succession or partnership relief without separate statutory research.

01 FACTS OF THE CASE

A Hindu undivided family had been taxed under the 1918 Act on a timber business. After a 1934 partition, five members carried on that business in partnership as Hakam Mal Tani Mal. That firm settled accounts through 31 March 1939 and dissolved; two partners took over the running timber business as R. B. Jodha Mal Kuthiala. Their later written deed recorded an oral partnership and separation from 1 April 1939. When the assessee firm dissolved in March 1943, it claimed section 25(3) relief or, alternatively, section 25(4) relief in the AY 1943-44 assessment. The authorities rejected the claim, but the Punjab High Court held that the assessee was carrying on business when Act 7 of 1939 commenced and therefore qualified under section 25(4).

Source: [Business succession, 1943 assessment claim and section 25\(4\) issue: SCR pp.646-648 / PDF pp.2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 5(3) of the General Clauses Act treated Act 7 of 1939 as coming into operation immediately upon expiry of 31 March 1939. The decisive question was therefore whether the assessee was carrying on business at that instant. Reading the partnership deed in context, the Court treated settlement through 31 March and separation from 1 April as showing that the old firm did no business after 31 March. Although the date of the new oral agreement was not stated, the assessee was constituted to carry on the old, running timber business allotted on dissolution. Continuity of that business and its transactions could reasonably be attributed to the new firm: the old firm continued until midnight on 31 March and the assessee's business commenced immediately thereafter, at the same point when the amendment came into force.

Source: [Commencement rule and construction of the partnership deed: SCR pp.648-650 / PDF pp.4-6](#)

03 JUDICIAL DECISION

The Court held that the new partnership came into being at the precise point when Act 7 of 1939 commenced. The assessee was therefore carrying on business at commencement and was entitled, on its March 1943 dissolution, to section 25(4) relief. The Revenue's appeal was dismissed with costs.

Source: [Entitlement to section 25\(4\) relief and dismissal: SCR p.650 / PDF p.6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee. Its section 25(4) entitlement was sustained and the Revenue's appeal was dismissed with costs.

Source: [Final result: SCR p.650 / PDF p.6](#)

05 AKHB REVIEW POINT

AKHB analysis: for a statutory benefit keyed to commencement at a precise time, assemble the commencement rule, the predecessor's closing time, the successor's constitutive documents and evidence that a running business passed without a gap. Here the Court inferred continuity from the deed and the operational business, not merely from the calendar label 'from 1 April.' The result is confined to the repealed section 25(4) transition and should not be transferred to present partnership or succession provisions without fresh analysis.

Source: [AKHB analysis based on deed interpretation and inferred continuity: SCR p.649 / PDF p.5](#)

SOURCE & VERIFICATION

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

Full 6-page SCR report read and visually checked. The editorial headnote spans PDF pp.1-2; Shah J.'s judgment for the Court begins on PDF p.2 and ends with dismissal on PDF p.6.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 6-page count match catalogue asset 1966_2_645_650; every page was text-reviewed and visually checked.

The report verifies Civil Appeal No. 95 of 1964, decision on 19 November 1965, the three-member bench and AY 1943-44.

No published record matches this citation, docket or 1939 commencement issue. A separate 1971 Jodha Mal Kuthiala judgment and later citations to Jodha Mal concern different questions and are not duplicates.

STATUTORY SCOPE

The holding concerns transitional succession relief under section 25(4) of the repealed Indian Income-tax Act, 1922, read with the commencement of Act 7 of 1939 and section 5(3) of the General Clauses Act. No current succession-relief analogue or later treatment has been independently checked.

LATER TREATMENT

Source checked 2026-10-10. The complete reported judgment and partnership-deed reasoning were checked. Later use of the commencement-time analysis and any modern successor provision have not been comprehensively checked; no citator or current-law clearance is represented.

AI DISCLOSURE

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