

Income-tax Officer, A-Ward, Lucknow v. Bachulal Kapoor

Civil Appeal No. 638 of 1961

[1966] 3 SCR 68 | 1965-12-14

Section 34 jurisdiction to reassess a Hindu undivided family where the same income had earlier been assessed to individual members under an alleged partition.

Indian Income-tax Act, 1922: sections 2(9), 3, 14(1), 14(2), 22(1), 25A and 34(1) | Constitution of India: Article 226

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

Assessment years: 1955-56

Jurisdiction ruling followed by remand

The Court upheld the availability of section 34 proceedings on the stated Revenue case but did not determine whether the family actually remained joint or resolve the unaddressed section 25A issue. Record the result as a remand, not final HUF liability.

01 FACTS OF THE CASE

Bachulal Kapoor had been assessed as karta of an HUF through AY 1952-53. After a family suit ended in a compromise decree dated 20 October 1952, the officer accepted a section 25A partition claim on 18 January 1954 and assessed the members individually for AYs 1953-54 to 1955-56. On 24 March 1960, however, the officer issued Bachulal as karta a section 34 notice for AY 1955-56, alleging escaped assessment. Revenue's information was that despite the decree the members lived and ate jointly and Bachulal ran the business, so the compromise was said to be make-believe. The Allahabad High Court quashed the notice as double taxation without deciding whether section 25A permitted reopening after the recognised partition.

Source: [Partition order, individual assessments, notice and Revenue information: SCR pp.69-73 / PDF pp.2-6](#)

02 DISCUSSION BY THE HON'BLE COURT

An HUF was a separate statutory person and unit of assessment. If its income escaped assessment, section 34 could be invoked against it subject to that provision's conditions. Unlike section 3's choice between an association of persons and its members, no election allowed genuine HUF income to be assessed finally as member income. Revenue's theory was that the officer lacked knowledge of the continuing HUF when making individual assessments; if true, this was not an informed election but an attempt to tax an entity whose income had escaped. Earlier mistaken member assessments did not eliminate jurisdiction, although any completed HUF assessment would require appropriate adjustment of tax already realised from members to prevent double collection. The Court did not decide the validity of protective assessments and expressed no view on whether Revenue's factual theory was true.

Source: [HUF entity and section 34 jurisdiction: SCR pp.72-74 / PDF pp.5-7](#); [Adjustment against double collection and unresolved protective assessments: SCR pp.75-77 / PDF pp.8-10](#)

03 JUDICIAL DECISION

The High Court erred in holding that the officer lacked jurisdiction merely because members had been individually assessed. The Court set aside the High Court order and remanded the appeal for disposal according to law because the High Court had not decided the separate section 25A ground. Costs of the Supreme Court appeal were made to abide the result. There was no final finding that the compromise was collusive, that the HUF continued or that additional tax was payable.

Source: [Jurisdiction holding, reserved section 25A issue and remand: SCR pp.77-78 / PDF pp.10-11](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue only on jurisdiction. The section 34 proceeding was not barred solely by the individual assessments, but the case returned to the High Court for the unresolved section 25A issue. No final HUF assessment, liability amount, protective-assessment approval or merits finding resulted.

Source: [Qualified Revenue outcome and remand: SCR p.78 / PDF p.11](#)

05 AKHB REVIEW POINT

AKHB analysis: distinguish jurisdiction to reopen from final liability and from collection. Confirm what entity earned the income, what the officer knew when earlier assessments were made, whether any genuine statutory election existed, and what partition order or saving rule governs. If the same economic income has already borne tax in another person's hands, preserve the Court's adjustment requirement rather than presenting jurisdiction as permission for double recovery. Separately decide any partition bar and later reassessment law.

Source: [AKHB analysis source: entity, knowledge, adjustment and remand reasoning](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 11-page SCR report read and visually checked. The editorial headnote spans PDF pp.1-2; Subba Rao J.'s judgment begins on PDF p.2 and ends with the remand order on PDF p.11.

Open cited source rendition

Exact source bytes, SHA-256 and 11-page count match catalogue asset 1966_3_68_78; every PDF page was text-read and visually checked.

The judicial text verifies Civil Appeal No. 638 of 1961, decision on 14 December 1965, the three-member bench and AY 1955-56.

No judgment record matching the Bachulal Kapoor party identity, citation, case number or source hash exists in content/supreme-court-cases.json.

STATUTORY SCOPE

The decision applies the repealed Indian Income-tax Act, 1922, including its historical entity, partition and reopening provisions. It does not establish the current reassessment procedure, present HUF partition rules, protective-assessment doctrine or adjustment mechanics.

LATER TREATMENT

Source checked 2026-10-10. Later treatment, modern reopening law, current HUF partition provisions and protective-assessment doctrine have not been comprehensively checked; no current-law or citator clearance is represented.

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