

Esthuri Aswathiah v. Commissioner of Income-tax, Mysore

Civil Appeal No. 402 of 1965

[1966] 3 SCR 359 | 1966-01-18

Change of accounting year: the officer could condition consent on a 21-month previous year so that the intervening nine months did not escape assessment.

Indian Income-tax Act, 1922: sections 2(11), 3, 25(1) and 66A(2) | Applicable annual Finance Act: rate for AY 1952-53

3-judge bench | K. Subba Rao, J. | M. Hidayatullah, J. | R. S. Bachawat, J.

Assessment years: 1952-53, 1951-52 (preceding-year context)

Historical previous-year option

The 21-month period resulted from a consent condition under section 2(11) of the 1922 Act. It is not authority that a comparable period is permissible under current law.

Decision date supplied by catalogue

The retained SCR scan does not print a decision date on its opening page; 18 January 1966 is the date in the source catalogue metadata.

01 FACTS OF THE CASE

Up to AY 1951-52, the assessee used a previous year ending 30 June. For AY 1952-53 he returned income for the 21 months from 1 July 1950 to 31 March 1952 and asked to change to a 31 March year-end. The officer consented on condition that the entire 21-month income be assessed at the rate applicable to that income. The assessee later argued for a 12-month proportionate rate and, on reference and appeal, challenged the officer's power to constitute a previous year longer than 12 months. The second referred rate question was not pressed before the High Court, though rate-related alternatives were argued in the Supreme Court.

Source: [Change request, 21-month condition and referred questions: SCR pp.360-361 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 3 charged income of the previous year but did not fix that year's length. Reading section 2(11) as a whole, the Court found that a previous year need not always be 12 calendar months: Board-determined periods could be longer or shorter, and a new business could have a shorter period. Once an assessee had chosen an accounting year, a later variation required the officer's consent on conditions the officer considered fit. Requiring the full interval from the old year-end to the new year-end protected Revenue because otherwise the intervening nine months would escape tax. The suggestion of two separate previous years for one assessment year was inconsistent with section 3; section 25(1)'s special broken-period assessment on discontinuance did not establish otherwise. The officer could not vary the statutory rate, but the rate wording in his order was redundant: once the 21-month period was validly fixed, all its income had to be assessed at the relevant Finance Act rate.

Source: [Section 2\(11\) scheme and variable period length: SCR pp.362-363 / PDF pp.4-5](#); [Consent condition preventing a nine-month gap: SCR p.363 / PDF p.5](#); [One previous year and Finance Act rate: SCR p.364 / PDF p.6](#)

03 JUDICIAL DECISION

The Court held that the officer had power to condition consent on treating 1 July 1950 through 31 March 1952 as the single previous year for AY 1952-53. The accompanying statement that income would be taxed at the rate applicable to 21-month income added nothing, because the relevant Finance Act supplied the rate. The appeal was dismissed with costs.

Source: [Validity of condition and operative dismissal: SCR pp.363-364 / PDF pp.5-6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue. The 21-month previous year remained valid for AY 1952-53, all income of that period was assessable at the statutorily prescribed rate, and the assessee obtained neither a split into two previous years nor a proportionate 12-month rate.

Source: [Final result: SCR p.364 / PDF p.6](#)

05 AKHB REVIEW POINT

AKHB analysis: when an accounting year changes under a historical statute, map the old year-end, new year-end and every intervening month before testing the officer's consent condition. Then separate the authority to define the taxable period from the distinct legislative power to set the rate. For a current file, confirm the present statute and transitional rules rather than carrying forward this repealed section 2(11) framework.

Source: [AKHB analysis based on the consent, gap-prevention and statutory-rate reasoning](#)

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 Bachawat J.'s unnumbered judgment beginning on PDF p.2 and continuing through PDF p.6. The printed report verifies the title, bench, citation and case number but does not display a decision date; the source catalogue supplies 18 January 1966.

Open cited source rendition

Exact source bytes, SHA-256 and 6-page count match catalogue asset 1966_3_359_364; every page was read as extracted text and inspected as a rendered image.

The judicial text verifies Civil Appeal No. 402 of 1965, the three-member bench, AY 1952-53, the 21-month period and dismissal with costs; the source catalogue supplies the date omitted from the printed scan.

No published AKBH record with this party pair, case number or source asset was found. AKBH's separate 1960 Esthuri Aswathiah reopening decision concerns a different opposing party, case and legal issue.

STATUTORY SCOPE

This decision construes the previous-year option under section 2(11) of the repealed Indian Income-tax Act, 1922. It does not establish current previous-year, transition-period or rate rules.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive later treatment and current accounting-period or Finance Act rules have not been checked; no current-law or citator clearance is represented.

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