

V. D. Dhanwatey v. Commissioner of Income Tax, M.P., Nagpur (with connected appeal)

Civil Appeals Nos. 1371 to 1373 of 1966

[1968] 2 SCR 62 | 1967-10-26

Historical Hindu undivided family taxation: whether remuneration paid under a partnership deed to a karta-partner, whose family supplied the partnership capital, was the karta's separate income or the HUF's income, and whether the Tribunal's no-detriment conclusion was a mixed question of law and fact.

Indian Income-tax Act, 1922: section 66(1) and section 66(2) | Indian Partnership Act, 1932: section 13(a) | Historical Hindu law principles governing a coparcener's separate acquisitions and detriment to joint-family property

5-judge bench; majority judgment delivered by V. Ramaswami, J.; K. S. Hegde, J. dissented in Civil Appeals Nos. 1372 and 1373 but concurred in dismissing Civil Appeal No. 1371 | K. N. Wanchoo, C.J. | R. S. Bachawat, J. | V. Ramaswami, J. | G. K. Mitter, J. | K. S. Hegde, J.

Assessment years: 1954-55, 1955-56

Majority and dissent must be separated

The controlling majority treated the nexus with joint-family capital and the no-detriment conclusion as a mixed question of law and fact. Hegde J.'s contrary view that the remuneration was V. D. Dhanwatey's personal income did not command the Court.

Connected appeal had a different concurrence

Hegde J. concurred in dismissing Civil Appeal No. 1371 concerning M. D. Dhanwatey, but expressly did not accept the majority's statement that its material facts were almost identical to the V. D. Dhanwatey appeals.

Printed remuneration inconsistencies preserved

The report's reproduced partnership clause states Rs. 1,000 per month for Marotirao Dhanwatey, while the connected-appeal recital states Rs. 1,250 per month. The headnote links his Rs. 7,500 payment to assessment year 1955-56, whereas the connected judgment identifies assessment year 1954-55. These editorial/body differences are not silently reconciled; the operative dismissal is unaffected.

Not a universal capital-nexus rule

The majority relied on the particular partnership deed, complete family funding and its conclusion of a real and sufficient connection. The judgment does not say that every payment to a karta-partner necessarily belongs to the HUF.

01 FACTS OF THE CASE

The assessee in Civil Appeals Nos. 1372 and 1373 was an HUF represented by its karta, V. D. Dhanwatey, who was a partner and general manager in Shivraj Fine Art Litho Works. The HUF supplied his entire partnership capital. Under successive partnership deeds, he received Rs. 1,500 per month and was paid Rs. 18,000 in each of assessment years 1954-55 and 1955-56. The assessee claimed that the payments rewarded his personal services and were his individual income; the authorities and Bombay High Court treated them as HUF income. Civil Appeal No. 1371 concerned M. D. Dhanwatey, another karta-partner whose family supplied his capital and who received Rs. 7,500 for work as works manager (SCR pp.65-67, 85-87; PDF pp.4-6, 24-26).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

For the majority, a coparcener's acquisition is separate only when made without aid or detriment to joint-family property. V. D. Dhanwatey became a partner through the family's entire capital contribution, and his contractual remuneration arose under the same partnership deed. The Court found a real and sufficient connection between that investment and the remuneration and held that the payment was not earned without detriment to family funds. His pre-partnership salary did not alter the character of the later contractual payment (SCR pp.68-74; PDF pp.7-13). The Tribunal's ultimate no-detriment conclusion required application of Hindu-law principles to primary facts and was therefore a mixed question of law and fact open to examination under section 66(1) (SCR pp.74-75; PDF pp.13-14). Hegde J. dissented in the two V. D. appeals: he read the Tribunal's finding as one of fact, relied on the pre-existing services and experience, and regarded remuneration permitted by section 13(a) of the Partnership Act as personal earnings. That reasoning was not the majority holding (SCR pp.75-85; PDF pp.14-24).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

By a four-to-one majority in Civil Appeals Nos. 1372 and 1373, the Court upheld inclusion of the Rs. 18,000 remuneration in the assessee-HUF's income and dismissed the appeals with costs and one hearing fee. All five judges dismissed Civil Appeal No. 1371 with costs; Hegde J. concurred in that result but not in the majority's factual comparison (SCR pp.75, 85-87; PDF pp.14, 24-26).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Revenue. The HUF assessments survived: V. D. Dhanwatey's Rs. 18,000 remuneration was taxable in the family assessment for both years, and the connected Rs. 7,500 remuneration issue was also decided against that assessee-family (SCR pp.75, 87; PDF pp.14, 26).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: for a historical HUF/partner-remuneration issue, trace the source of partnership capital, the deed creating the office and payment, and the factual/legal nexus between family assets and the remuneration. Record any pre-existing skill or service evidence, but distinguish the controlling majority from a dissent that treats that evidence differently. Do not convert this fact-specific 1922 Act/Hindu-law decision into a present-day rule without checking the applicable statute and later authorities (based on SCR pp.68-75, 85-87; PDF pp.7-14, 24-26).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 26-page SCR report read and checked. The editorial headnote and adjacent-report boundary text were distinguished from the judicial opinion and operative order.

Open cited source rendition

Exact source bytes, SHA-256 and 26-page count match catalogue asset 1968_2_62_87; every page was reviewed.

The source verifies Civil Appeals Nos. 1371 to 1373 of 1966, the stated bench, issues, reasoning and operative result.

No published or archived standalone AKHB note with this source hash, case identity and operative decision was found.

STATUTORY SCOPE

The report concerns assessments for 1954-55 and 1955-56 under the repealed Indian Income-tax Act, 1922 and historical Hindu-law characterisation of a karta's remuneration. It does not establish the treatment of partner remuneration, HUF income or professional compensation under any current statutory regime. No current-law or comprehensive later-treatment clearance was undertaken.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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