

Harishikesh Ganguli (Dead) v. Commissioner of Income Tax, Calcutta

Civil Appeal No. 1850 of 1967 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1972] 1 SCR 310 | 1971-08-18

Under the third proviso to 1922 section 16(1)(c), the settlor's reserved income did not make all trust income taxable to him when the protection's conditions were satisfied for the other beneficiaries' shares.

1922 Act: 16(1)(c), first and third provisos

2 Judges | K. S. Hegde | A. N. Grover

01 FACTS OF THE CASE

Harishikesh Ganguli settled two houses on trust on 19 March 1953. The deed directed the trustees to pay him Rs 200 a month for life from income remaining after taxes, rents and other expenses. Total annual property income exceeded Rs 19,000; his reserved entitlement was Rs 2,400. The officer and AAC taxed the whole property income to him under section 16(1)(c) of the Indian Income-tax Act, 1922. The Tribunal found that he had irrevocably parted with the properties and taxed only his own entitlement. The Calcutta High Court restored the broader attribution, treating the reserved benefit as making the entire settlement revocable.

Source: [SCR 311D-312D](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court read the substantive clause with both the first and third provisos. A transfer deemed revocable under the first proviso could still receive the third proviso's protection. Applying *Rani Bhuvaneshwari Kuer*, the relevant conditions were protection against revocation for the specified period exceeding six years or the beneficiary's lifetime, and absence of direct or indirect benefit to the settlor from the income given to that beneficiary. The settlor's own beneficial share remained taxable to him. Reserving that share did not, by itself, defeat protection for separate income settled on others. The Court expressly contrasted 1961 section 63(a), which refers to retransferring or reassuming power over the whole or any part of income or assets.

Source: [SCR 312E-315F](#)

03 JUDICIAL DECISION

The trust's genuineness was undisputed and the third proviso's conditions were fulfilled. Only income accruing to or received by the settlor could be assessed to him; income accruing to the other beneficiaries could not be included in his total income. The Court set aside the High Court judgment and answered the reference in the assessee's favour.

Source: [SCR 314G-315G](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal allowed; each side to bear its own costs. Whole-trust attribution was rejected; the settlor remained taxable on his own Rs 2,400 annual entitlement.

Source: [SCR 315F-H](#)

05 AKHB REVIEW POINT

Identify each income interest and test the relevant proviso's conditions separately; a settlor's retained benefit is not an exemption for that benefit. The Court's express contrast with section 63(a) makes this a particularly unsuitable precedent for automatic transplantation into 1961 or 2025 trust rules. No assessment year is supplied in the printed judgment.

Source: [SCR 313B-315H](#); [editorial beneficiary-specific and statutory-version limits](#); [HTML 38-64;whole 61](#); [HTML 38-72;whole 62\(1\)-\(2\)](#); [HTML 38-75;whole 63\(a\)\(i\)-\(ii\).\(b\)](#); [Title physical 1; complete 97\(1\)-\(3\) and 98\(a\)-\(b\), physical 165-166/web 6791-6810](#).

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 1850 of 1967 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Income-tax Reference No. 102 of 1962 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

6-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified.

Open cited source rendition

SCR 312's running header prints[1971]1SCR, while SCR 314 prints[1972]1SCR. The note uses the corroborated 1972 volume identity and retains the inconsistent header here.

The headnote prints "63(A)"; the judgment quotes section 63(a), which controls the comparative reference.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 16(1)(c), first and third provisos

Section 61(displayed 2026) and 62/63(displayed 2025) separately govern attribution, the exceptions and revocability. Section 63 expressly reaches the whole or any part of income/assets, matching the primary judgment's warning about changed language.

Sections 61-62 compare with 97, and 63 with 98, in the FA 2026 compilation. Section 98(b) retains whole-or-any-part language;97(2) has the lifetime/no-benefit exception but does not repeat 62(1)(ii)'s pre 1961/six-year limb. No independent savings conclusion or automatic transfer of Ganguli's result is made.

qualified; operative legacy holding and bounded comparison are separately identified

LATER TREATMENT

Source checked 2026-10-07. No later judicial-use passage is adopted for this note. That is a limit of this review, not a statement that later treatment does not exist.

Comprehensive subsequent history and present-law applicability are not certified.

IDENTIFIED SOURCE LINKS[Income-tax Act,1961: section 61](#)

Displayed 2026 edition HTML 38-64;whole 61 Personally read bounded official text; comparison only. No automatic precedent carryover or broader currentness certification. Original web-source bytes/images not retained or inspected.

[Income-tax Act,1961: section 62](#)

Displayed 2025 edition HTML 38-72;whole 62(1)-(2) Personally read bounded official text; comparison only. No automatic precedent carryover or broader currentness certification. Original web-source bytes/images not retained or inspected.

[Income-tax Act,1961: section 63](#)

Displayed 2025 edition HTML 38-75;whole 63(a)(i)-(ii),(b) Personally read bounded official text; comparison only. No automatic precedent carryover or broader currentness certification. Original web-source bytes/images not retained or inspected.

[Income-tax Act,2025: sections 97-98](#)

FA 2026 compilation; checked 7 October 2026 Title physical 1; complete 97(1)-(3) and 98(a)-(b), physical 165-166/web 6791-6810. Personally read bounded official text; comparison only. No automatic precedent carryover or broader currentness certification. Original web-source bytes/images not retained or inspected.

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