

Income-tax Officer, Gorakhpur v. Ram Prasad and Ors.

Civil Appeals Nos. 257 and 258 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 1 SCR 1043 | 1972-08-28

A divided Hindu family could not be assessed under the Excess Profits Tax Act by importing the 1922 Act's firm-dissolution machinery.

Excess Profits Tax Act, 1940 | 1922 Act: 3 | 1922 Act: 25-A | 1922 Act: 44

3 Judges | K. S. Hegde | P. Jaganmohan Reddy | H. R. Khanna

Scope of this decision

Special Excess Profits Tax statutory gap; modern HUF partition machinery must be checked separately.

01 FACTS OF THE CASE

The Revenue could not continue excess-profits-tax proceedings against the Hindu undivided family after its accepted complete partition on 1 October 1951. Ram Prasad, its karta, had carried on business as Ram Nath Ram Prasad. After earlier assessments and a Tribunal direction for fresh orders, he disclosed ₹2,08,450 under a voluntary-disclosure scheme in September 1951. Fresh income-tax assessments for 1944-45 through 1947-48 were not disputed here. The challenge concerned later notices under sections 13(1) and 15 of the Excess Profits Tax Act, 1940. The Allahabad High Court held those proceedings incompetent after partition, and the officer appealed.

Source: [SCR1044-1045: partition, disclosure and notices.](#)

02 DISCUSSION BY THE HON'BLE COURT

Hegde J rejected the contention that excess profits tax attached only to a continuing business, making a change in the person carrying it on immaterial. Sections 4, 5 and 14 showed that the assessment and payment obligation were those of the person, although business profits supplied the measure. The Act specifically dealt with joint business and legal representatives; continuity could not be supplied simply by pointing to the same commercial activity. Section 21 incorporated selected provisions of the Indian Income-tax Act, 1922, including section 44, but not section 25-A. Section 44 applied to firms and associations of persons. A Hindu undivided family was separately recognised by section 3 and was neither of those categories. Section 25-A's distinct partition machinery reinforced that distinction. The Court would not repair the omitted incorporation by treating the family as an association.

Source: [SCR1045-1049: charging/person provisions, selected incorporation and separate HUF status.](#)

03 JUDICIAL DECISION

The impugned notices were invalid. The Court agreed with the High Court and the cited decisions on the absence of the necessary statutory mechanism. It did not invalidate the separate income-tax assessments or decide a general exemption for every business continued after a change of ownership. The statutory omissions therefore determined the outcome.

Source: [SCR1049E-H: omission and invalid notices.](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue appeals dismissed with costs, advocates' fee one set. The challenged excess-profits-tax notices could not proceed against the partitioned family.

Source: [SCR1049H: dismissal and one advocates-fee set.](#)

05 AKHB REVIEW POINT

Separate the taxable person, liability machinery and method of service. The applicable modern income-tax statutes expressly address partition, so this special-statute omission cannot establish present immunity. The case is also distinct from Ram Pershad, decided four days earlier about managing-director salary: similar names do not establish identical judgments or parties.

Source: [SCR1047F and 1049D-G: omitted 25-A, separate status.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeals Nos. 257 and 258 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Special Appeal Nos. 319 and 320 of 1962 — Originating High Court special appeals from the single-judge writ decision / Misc. Writ Petitions Nos. 1057 and 1059 of 1957 — Underlying High Court writ petitions, not Supreme Court appeal numbers

SOURCE & VERIFICATIONOriginal reported Supreme Court judgment

7-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. All 7 physical text/image pages, SCR1043-1049. Printed 28 Aug 1972; Hegde/Reddy/Khanna; SC257-258/1969; Allahabad special appeals 319-320/1962 and writs 1057/1059/1957 distinct. Full statutory extracts and dismissal costs one advocates fee set. Printed period ends differ: p1044 October 28, 1943 and October 16, 1944; p1045 October 25, 1943 and October 14, 1944 in notices narrative. p1047 statutory quotation repeats lines across page boundary. Headnote mislabels s14 under 1922 and prints petition where context is partition; judgment controls. No adjacent case.

Open cited source rendition

Period ends are inconsistent: SCR 1044 says 28 October 1943/16 October 1944; SCR 1045 says 25 October 1943 for the first notices and 14 October 1944 for later notices. No date is silently substituted.

SCR 1047 repeats part of the section 14(3) quotation across the page break. The headnote mislabels section 14 under 1922 and prints petition where the dispute concerns partition.

STATUTORY SCOPE

Excess Profits Tax Act, 1940, sections 2(17), 4, 5, 13(1), 14, 15 and 21; Indian Income-tax Act, 1922, sections 3 and 44 construed separately; section 25-A was not incorporated into the Excess Profits Tax Act.

Whole 171 and 283, displayed 2025, expressly address continuing HUF assessment status, partition findings and liabilities, post 1978 partial partitions, and service after total partition. These income-tax provisions differ from the omitted 25-A incorporation decisive under the Excess Profits Tax Act.

Whole 315 and 503 in the FA 2026 text contain HUF continuation, inquiry, liability and service machinery. The provisions operate for that Act; their existence does not import a fiction or notice power into the 1940 Excess Profits Tax Act. No general post-partition immunity follows.

The operative historical law remains the basis of the holding. Section 1(3) commences the 2025 Act on 1 April 2026, subject to contrary provision; selected 536 savings preserve earlier operations, liabilities and proceedings. Only exact stated versions/bounds were read, not all savings, amendments, rules or applicable facts. No automatic precedent carryover.

Other provisions addressed: 2(17); 4; 5; 13(1); 14; 15; 21

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted here; comprehensive subsequent history remains unverified.

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

No claim that later treatment is absent. Authorities discussed inside the primary judgment are source-field content, not later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: section 171](#)

Official HTML displayed 2025 Complete 171(1)–(9) and Explanation, identity/text HTML 38–99. Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

[Income-tax Act, 1961: section 283](#)

Official HTML displayed 2025 Complete 283(1)–(2), identity 195–217/text 222–224. Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

[Income-tax Act, 2025: sections 315 and 503](#)

As amended by Finance Act 2026 Complete 315(1)–(10), lines 16727–16789, physical 409–411; 503(1)–(2), lines 23621–23630, physical 565. Section 503 also checked in official HTML displayed 2026, 38–63. Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

[Income-tax Act, 2025: bounded commencement and savings](#)

As amended by Finance Act 2026 1(1)–(3), lines 0–13; 536(1), (2) opening and (a)–(e), lines 24385–24408 including FA 2026 amendment footnote; 536(3)–(4), lines 24597–24601. Not whole 536. Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

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