

Govinddas & Ors. etc. etc. v. Income Tax Officer & Another

Civil Appeal No.702 of 1975 / Civil Appeals Nos.840–843 of 1975

[1976] 3 SCR 44 | 1975-12-18

Whether historical section 171(6), read with subsection (7), could impose personal liability on members for AYs governed substantively by the 1922 Act after a 1955 partial partition, merely because reassessment used the 1961 machinery under section 297(2)(d)(ii).

171(1)–(7), especially (6) and (7) (historical partition and personal-liability scheme) | 297(2)(d)(i)–(ii), especially clause (ii) (transition for escaped income) | 143 and 144 (assessment provisions referred to in construing section 171) | 147 and 148 (actual reassessment and notices) | 149 and 150 (conditions incorporated in the quoted transition provision)

3-judge bench | P.N. Bhagwati, J. | A.C. Gupta, J. | S. Murtaza Fazal Ali, J.

Assessment years: 1950-51, 1951-52, 1952-53, 1953-54, 1954-55, 1955-56, 1956-57

Historical personal liability, reserved inquiry issue and later partition law

The ruling prevents a new section 171(6) personal liability being imposed for AYs 1950–51 to 1956–57 through the 1961 reassessment machinery. It does not annul the HUF tax or recovery against its assets. The alternative inquiry/finding objection under section 171(3) was not decided. The printed property total and allotments differ by Rs.2; no correction is assumed. The historical partial-partition scheme must be distinguished from the later section 171(9) text checked in the official 1991 edition. Vatika is only a bounded later citation check. Original PDF unchanged. Comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

The HUF consisted of Gulabdas, his wife and five sons. It owned movable and immovable property and held interests through its karta in an Export Firm and a Mining Firm. On 15 November 1955 the members partially partitioned movable property, including the net firm balances. The report values the partitioned property at Rs.4,87,054; its individually listed allotments total Rs.2 less, an unreconciled source discrepancy. Gulabdas and Govinddas thereafter continued in the firms individually. In the HUF assessment for AY 1957–58 the Officer accepted the partial partition after inquiry, and the firms' income was no longer included in the HUF's assessment from that year (physical pages 3–4/SCR 46 E–47 B).

After the 1961 Act commenced, the firms' assessments for AYs 1950–51 to 1956–57 were reopened and enhanced. Consequential HUF reassessments dated 26 March 1970 increased its income. Appellate relief to the firms led to HUF rectification orders of 25 March 1971 and 3 September 1974, but the ultimate tax still exceeded the original assessments. The members did not challenge that reassessment exercise or recovery from joint-family property received on partition (physical pages 4–5/SCR 47 B–48 D).

The dispute concerned personal allocation. On 25 January 1974 the Officer apportioned the HUF tax for AYs 1950–51 to 1954–55 and 1956–57 under section 171(7): two-sevenths to Gulabdas and one-seventh to each son. The Court said Gulabdas's share perhaps included his wife's share; it did not determine that allocation fact. Those orders were revised on 3 September 1974. An order of 13 August 1974 allocated AY 1955–56 tax on the same basis. Each son challenged the August/September orders in the Bombay High Court. The Nagpur Bench dismissed the five petitions with costs on 18 March 1975 in Special Civil Applications Nos.1668, 1893 and 1895–1897 of 1974. Five special-leave appeals followed (physical page 3/SCR 46 B; physical pages 4–5/SCR 47 G–48 H).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The appellants confined their Supreme Court attack to the applicability of section 171(6), read with subsection (7). Their first argument was that the new personal liability could not attach to old-Act assessment years; their alternative was that the necessary inquiry and partition finding had not been made under section 171(3). The Court accepted the first and expressly found it unnecessary to decide the second. The earlier factual acknowledgment of partition therefore must not be converted into a holding on compliance with section 171(3) (physical page 6/SCR 49 A–D).

The Court explained the 1922 scheme, drawing on *Additional ITO v. Thimmayya*. Section 25A cured the difficulty of assessing income after an HUF had ceased to exist, and deemed an assessed family to continue unless a qualifying partition order was recorded. Only a total partition could be recognised under that section. When such an order was recorded, subsection (2) permitted apportionment and joint-and-several personal liability. Without it, recovery remained against joint-family assets. Because this case involved only a partial partition, section 25A did not impose the personal liability asserted against the sons (physical pages 6–7/SCR 49 D–50 F).

Historical section 171 changed the scheme by addressing both total and partial partition. Subsections (2)–(5) addressed a claim made during assessment under sections 143 or 144, inquiry, a recorded finding and consequent assessment. Subsection (6) additionally dealt with a partition discovered after completion of assessment, even though no partition claim and finding had occurred in the assessment process. It made former members jointly and severally liable; subsection (7) computed several liability by the portion of joint-family property allotted. In the situation governed by subsection (6), this was a new personal liability, not simply a means of reaching the property formerly owned by the HUF (physical pages 7–9/SCR 50 G–52 D).

The presumption against retrospectivity applies where new legislation impairs rights or creates substantive obligations unless express language or necessary implication requires a contrary result. The Court preserved the distinction for merely declaratory, procedural or evidentiary provisions; it did not declare that all legislation is invariably prospective. Section 171(6) could operate fully for assessments under sections 143 or 144 of the new Act without extending it to assessments substantively governed by the old Act. No language or necessary implication justified imposing the new personal burden on these earlier years (physical pages 9–10/SCR 52 E–53 C).

The Revenue relied on section 297(2)(d)(ii), since no old section 34 proceeding was pending when the new Act commenced and the HUF had been reassessed through sections 148 and 147. The Court rejected the contention that application of all provisions of the new Act accordingly imported every substantive liability. In context, the transition imported the machinery for assessment of escaped income; substantive liability remained governed by the law of the relevant assessment years. The post-assessment personal liability under section 171(6) was not incorporated by that machinery language. The Court described subsections (1)–(5) as assessment machinery in this contrast; it did not decide every possible transition issue under those provisions (physical pages 10–11/SCR 53 D–54 E).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

All five appeals were allowed. The Court issued a writ in each appeal quashing and setting aside the orders dated 13 August 1974 and 3 September 1974, with the respondents to pay the petitioners' costs throughout. It did not quash the HUF reassessments, extinguish recovery against joint-family assets or remit the alternative inquiry issue (physical page 11/SCR 54 F).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Appellant HUF members

Five appeals allowed; impugned personal-liability allocation orders quashed; petitioners awarded costs throughout

Final ruling against retrospective imposition of section 171(6) personal liability through section 297(2)(d)(ii)

The HUF tax and recovery against its assets were not set aside. Alternative section 171(3) inquiry/finding objection was not decided.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Identify separately the law creating liability, the person or property answerable for it, and the machinery used to assess or recover it. A reopening performed under the 1961 machinery does not by itself import a new substantive personal liability into earlier assessment years. This case concerns a 1955 partial partition and old-Act tax years, not a general exemption of HUF members from section 171.

Bounded later judicial check: the Constitution Bench in Vatika Township, 15 September 2014, paragraph 36, expressly quoted Govinddas's prospectivity principle while deciding the different section 113 surcharge question. The surrounding paragraph 35 retains the declaratory/clarificatory qualification. This supports the stated interpretive principle within the checked passages, not an exhaustive subsequent history (physical pages 30–33/SCR 1066–1069).

Bounded later statutory comparison: the Income Tax Department's 1991 edition of section 171 includes subsection (9), under which partial partitions after 31 December 1978 are not recognised in the described assessment process. That later text is distinct from the historical regime in this judgment; no present-law or 2025 conclusion follows.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Date and bench

Source url: [Open cited source](#)

Pdf pages: 1

Paragraphs: SCR 44 heading

Source role: reported metadata

2.

Topic: Full dockets; family, partition and printed amounts

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 46 B–47 B

Source role: reported metadata and judicial text

3.

Topic: Reassessments, rectifications, allocations and objections

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 47 B–48 H

Source role: judicial text

4.

Topic: Limited attack and expressly undecided alternative

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 49 A–D

Source role: judicial text

5.

Topic: Old section 25A and joint-family asset liability

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: SCR 49 D–50 F

Source role: judicial text

6.

Topic: Historical section 171 machinery and new liability

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: SCR 50 G–52 D

Source role: judicial text

7.

Topic: Prospectivity and old-year liability

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: SCR 52 E–53 C

Source role: judicial text

8.

Topic: Section 297 machinery; relief and costs

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: SCR 53 D–54 F

Source role: judicial text

9.

Topic: Bounded later direct citation and declaratory-law context

Source url: [Open cited source](#)

Pdf pages: 30; 31; 32; 33

Paragraphs: SCR 1066–1069, paragraphs 35–38

Source role: bounded later judicial treatment

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

P.N. Bhagwati, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961: historical sections 171(6)–(7) and 297(2)(d)(ii); Indian Income-tax Act, 1922: section 25A

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922: sections 25A(1)–(3), 14(1), 23 and 34

SPECIFIED PRIMARY-SOURCE CHECKS AND THEIR LIMITS

1.

Kind: direct later judicial treatment

Status: bounded verified

Source url: [Open cited source](#)

Finding: Vatika paragraph 36 expressly quotes Govinddas's prospective-liability principle; surrounding paragraph 35 preserves declaratory/clarificatory exceptions.

Limit: Only the disclosed pages reviewed; not comprehensive later treatment.

2.

Kind: later statutory comparison

Status: bounded verified

Source url: [Open cited source](#)

Finding: The dated edition contains section 171(9), addressing partial partitions after 31 December 1978; this later rule must be separated from the 1955 partition and historical scheme in Govinddas.

Limit: Dated HTML comparison only, not a complete amendment chain, official Gazette authentication, current-law certification or 2025 mapping.

DATED OFFICIAL STATUTORY HTML COMPARISONS AND READING LIMITS

1.

Kind: official statutory html

Url: [Open cited source](#)

Title: Income Tax Department section 171, year-labelled 1991

Version label: 1991

Accessed on: 2026-10-05

Read bounds: Section identity and year at lines 195–217; section text at lines 226–251, substantively relied on only for section 171(9), lines 238–243. No footnote for its insertion date was visible and none is asserted.

Finding: The dated edition contains section 171(9), addressing partial partitions after 31 December 1978; this later rule must be separated from the 1955 partition and historical scheme in Govinddas.

Limit: Dated HTML comparison only, not a complete amendment chain, official Gazette authentication, current-law certification or 2025 mapping.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 11 PDF pages; SHA-256

9ffb759e587e0e8bb3cdc92a37671f1c79f95d7ffc1170f568fed46fe8a73aac. Original bytes preserved.

Judicial body begins physical page 3/SCR 46 D (Bhagwati, J.) and ends physical page 11/SCR 54 F with writs quashing the allocation orders and costs throughout. Pages 1–2 and upper page 3 contain reporter material, appellate metadata and appearances. No adjacent judgment.

[Open cited source rendition](#)

The decision date is 18 December 1975; 1976 is the SCR reporting year.; The full appellate group is Civil Appeal No.702 and Civil Appeals Nos.840–843 of 1975, not the catalogue's lead docket alone.; The reported property total Rs.4,87,054 differs by Rs.2 from the sum of the printed allotments (Rs.53,442, Rs.50,000 and five times Rs.76,722); no figure is silently corrected.; The two-sevenths allocation perhaps included the wife's share, as the Court itself qualified; no definite finding is supplied.; The alternative section 171(3) inquiry/finding argument was expressly unnecessary to decide. HUF reassessment and recovery against joint-family assets were not annulled.

AYs 1950–51 through 1956–57 are the reassessed liabilities whose personal allocation was challenged. AY 1957–58 is separately mentioned only as the assessment in which the 1955 partial partition was accepted; it is not one of the challenged liability years.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law carryover certification. Verify the applicable statutory version separately.

LATER TREATMENT

Source checked 2026-10-05. not_verified. Bounded direct check of Vatika Township paragraph 36 and context, plus a dated 1991 section 171 HTML comparison, are recorded separately. No comprehensive citator, full amendment chain or current-law certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 11](#)

SHA-256: 9ffb759e587e0e8bb3cdc92a37671f1c79f95d7ffc1170f568fed46fe8a73aac

[reported judgment bounded later check - PDF pages: 43](#)

SHA-256: 4892de497ff80aa17d11d66c23196f4ea79d62857d8a872213f2b312aaa20a24

[Income Tax Department section 171, year-labelled 1991](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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