

M/s. Gauri Shankar, Chandrabhan v. Commissioner of Income Tax, U.P., Lucknow

Civil Appeal No. 886 of 1971

[1976] Supp. SCR 505 | 1976-05-03

1922 Act HUF penalty: the statutory undivided-status fiction continued until a section 25A(1) partition order was actually recorded.

Indian Income-tax Act, 1922: sections 25A(1)-(3), 28(1)(c), 66(1) and 66A(2) | Indian Income-tax Act, 1922: sections 14(1) and 23 reproduced within section 25A

2-judge bench | A. C. Gupta, J. | Jaswant Singh, J.

Assessment years: 1946-47

Repealed 1922 Act

The result turns on the express section 25A(3) fiction under the 1922 Act. Verify the governing 1961 Act provisions and later authorities for any current HUF partition or penalty issue.

01 FACTS OF THE CASE

The appellant HUF returned Rs.9,701 for AY 1946-47. After discrepancies and cash credits were identified, the Income-tax Officer issued a section 28(1)(c) notice on 15 March 1957. The representative agreed to treat Rs.15,000 as HUF income; on 20 March 1958 the officer added Rs.68,550 and imposed a Rs.26,000 penalty, later reduced to Rs.15,000. Meanwhile, on 19 March 1957 the HUF applied under section 25A for recognition of a complete partition said to have occurred on 22 June 1956. That recognition order was made only on 26 March 1962. The Tribunal treated the earlier penalty as invalid after disruption, but the High Court answered Revenue's reference against the HUF.

Source: [Assessment, penalty and partition chronology: SCR pp.506-507](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 25A(3) created a legal fiction that an HUF previously assessed as undivided continued in that status until an order under section 25A(1) was passed. The Court applied A. Thimmayya and Joint Family of Udayan Chinubhai: a personal-law partition did not by itself remove the officer's statutory jurisdiction while no recognition order had been recorded. Here no section 25A order existed when penalty proceedings began in March 1957 or when penalty was imposed in March 1958; recognition came in March 1962. The later order therefore did not retrospectively erase the statutory status relevant when penalty was imposed.

Source: [Section 25A fiction and controlling authorities: SCR pp.508-509](#)

03 JUDICIAL DECISION

Because the HUF remained deemed undivided until the section 25A(1) order of 26 March 1962, there was no statutory bar to the penalty imposed on 20 March 1958. The High Court had correctly answered the reference against the HUF. The Supreme Court dismissed the appeal without costs.

Source: [Application and final dismissal: SCR p.509](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue. The HUF did not succeed in invalidating the historical concealment penalty by relying on a partition recognised after imposition. The appeal was finally dismissed without remand and without costs.

Source: [Outcome: SCR p.509](#)

05 AKHB REVIEW POINT

AKHB analysis: distinguish a partition under personal law from the date on which a tax statute recognises it for assessment purposes. Prepare a chronology of the claimed partition, statutory application, penalty initiation, penalty order and formal recognition. This judgment depends on the repealed section 25A fiction; present-day HUF partition and penalty questions require independent analysis under the applicable 1961 Act provisions and later case law.

Source: [Chronology and statutory fiction: SCR pp.506-509](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full five-page supplementary SCR report read. Editorial headnote on PDF pages 1-2 was distinguished from the unnumbered judicial text beginning on PDF page 2 (SCR p.506).

[Open cited source rendition](#)

Exact source bytes, SHA256 and five-page count match catalogue asset S_1976_1_505_509. All pages were read.

The title, 3 May 1976 date, two-judge bench, Civil Appeal No.886 of 1971 and supplementary SCR citation were verified from the report.

The source has no numbered judicial paragraphs; SCR and physical PDF page pinpoints are used.

The headnote once misprints section 27A(1), but the judicial text consistently identifies the operative partition provision as section 25A(1). The note follows the judgment text.

STATUTORY SCOPE

The judgment applies the repealed Indian Income-tax Act, 1922 and its section 25A recognition mechanism. It does not certify the present treatment of HUF partitions or penalties under the Income-tax Act, 1961.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive later treatment, statutory succession and current penalty doctrine have not been checked. No current-law or citator clearance is represented.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. It is not legal or tax advice. Verify the original judgment, applicable statutory version and subsequent judicial treatment before relying on it. The AKHB Review Point is editorial analysis, not part of the Court's judgment.