

Commissioner of Income Tax v. Dharmodayan & Co., Kerala

Civil Appeal Nos. 1521–1523 of 1973

[1978] 1 SCR 319 | 1977-08-22

Did the 1961 definition's profit restriction displace the earlier finding that this assessee's kurie business itself was held on charitable or religious trust, and did a power to set aside reserves negate the charitable purpose?

2(15) (historical charitable-purpose definition) | 11(1)(a) (trust-income exemption, including then accumulation wording)

Two-judge bench | Y.V. Chandrachud, J. | P.S. Kailasam, J.

Assessment years: 1968-69

1977 decision, fact-bound trust-business exemption

The actual decision is dated 22 August 1977 and covers three appeals, including two writ-notice matters. AY 1968-69 is stated for the reference; earlier 1922 Act years are background only. Exemption depended on the established character of this particular trust-held business and charitable application. A power to reserve profits was not a licence for unrestricted accumulation, and future denial remained possible. Surat's majority later relied on the case within a broader historical test; that does not certify exemption under amended law. Comprehensive later treatment, current-law status and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The company received income from securities, property and kuries or chit funds. In earlier litigation for AYs 1952-53 to 1956-57 under the 1922 Act, the Kerala High Court held the kurie business itself to be held on religious or charitable trust, rather than merely being conducted on behalf of such an institution. Its income, to the extent applied to those purposes, qualified for exemption. The Revenue withdrew its appeal to the Supreme Court, leaving that judgment final (physical page 3/SCR 321 C–G).

For the present AY 1968-69 under the 1961 Act, the Income-tax Officer denied exemption, but the Appellate Assistant Commissioner and Tribunal allowed it. The reference asked both whether the income was exempt under section 11(1)(a) and whether setting aside reserves under article 39 vitiated the institution's charitable purpose. Two accompanying writ petitions challenged, respectively, a notice reopening an assessment and a notice requiring a return. The High Court answered both reference questions for the assessee, allowed the writ petitions and quashed the notices; the Revenue brought three appeals (physical pages 3–4/SCR 321 G–322 C).

Article 39 barred distribution of profit to members, permitted provision for stability and bad-debt reserves, and allowed the balance to be spent on the memorandum's charity, education, industry and public-interest objects. The Court recorded that the company had never undertaken an industry or other public-interest activity and had conducted kuries over the years (physical pages 6–7/SCR 324 G–325 D).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court compared the actual 1922 and 1961 texts. It recognised that the 1961 definition had added the activity-for-profit restriction to the general-public-utility limb. Nevertheless, the change did not itself transform the previously established character of this particular trust-held business. The Revenue's argument assumed that the company conducted kuries to advance a general-public-utility object. The Court regarded that assumption as inconsistent with the earlier finding, which it treated as conclusive on this record, and inferred that the business had not been undertaken for that purpose. The nature of the company's activity had not changed (physical pages 4–6/SCR 322 D–324 G).

The judgment used Krishna Warriar to distinguish a business itself held under trust from business merely carried on for an institution. It treated the unused industry/public-interest wording in this company's constitution in the light of its actual history and the absence of a purpose to start a profit-making industry. Decisions involving an actual business advancing the fourth-head object, or authorising expenditure of all trust income on non-charitable objects, did not govern these facts (physical pages 7–8/SCR 325–326).

The Revenue argued that Indian Chamber of Commerce had already overruled the High Court judgment under appeal. The Court rejected that reading of the earlier report's headnote. The criticism in Indian Chamber proceeded on the assumed applicability of the fourth charitable head and an assumed industrial activity; the relevant facts and the pendency of this appeal had not been before that Court. The present Court therefore declined to treat that criticism as dispositive and expressly confined its own exemption conclusion to these facts (physical pages 9–10/SCR 327–328 D).

As to reserves, the mere article 39 power did not, without more, destroy charitable character. The High Court had found that income had been spent for charitable purposes. The Court preserved the Department's ability to deny exemption if future conduct involved setting apart the whole or a substantial part of profit for reserves. This was not an unrestricted permission to accumulate income and did not erase the section 11 conditions (physical page 10/SCR 328 E–F).

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

03 JUDICIAL DECISION

The Court confirmed the High Court's judgment and dismissed all three Revenue appeals. Accordingly, both assessee-favouring reference answers and the quashing of the two notices remained undisturbed. The Revenue was directed to pay the respondent's costs in one set. No further remand or general reopening-jurisdiction rule was ordered (physical pages 4 and 10/SCR 322 A–C and 328 D–G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Three Revenue appeals dismissed; High Court judgment and orders confirmed; respondent's costs in one set

Fact-bound exemption under historical section 11(1)(a), with both reference answers and the writ-notice relief preserved

AY 1968-69 expressly stated for the reference; companion writ years not identified. Future reserve conduct could still defeat exemption. Earlier 1922 litigation provides the finding used here, not a universal exemption across all statutory versions.

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

05 AKHB REVIEW POINT

Read the conclusion with its expressly stated factual limit. The earlier adjudicated nature of the business, unchanged conduct and actual charitable application drove the result. The reserve ruling concerns a bare power; it does not establish that any quantity of retained profits can qualify. Likewise, dismissal of the companion writ appeals does not supply a freestanding rule about every reopening or return notice.

Dharmaposhanam subsequently distinguished this case on the absence of an equivalent prior finding and explained the evidential role of objects never intended to be pursued. Surat Art Silk's three-judge opinion later relied on Dharmodayam in distinguishing a funding business held under a charitable obligation from profit-making integrated into advancing the purpose. That discussion must be read with Surat's actual-conduct and predominant-profit test, not as a safe harbour for every trust-operated business (Dharmaposhanam physical pages 7–8; Surat physical pages 27–34).

AUDA later examined the amended general-public-utility definition and statutory limits, showing why the old trust-business reasoning cannot alone determine exemption for a later year. The present note does not certify that any company, trust or reserve arrangement remains exempt under current law (AUDA paragraphs 129–130, 150–154 and 253(A), physical pages 73, 84–87 and 141–142).

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Actual 1977 date, two-judge bench, three appeals and originating cases

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 319 heading; 321 A–C

Source role: reported metadata and judicial text

2.

Topic: Earlier 1922 adjudication, present AY and two writ notices

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 321 C–322 C

Source role: judicial text

3.

Topic: Comparative statutory texts and independent 1961 analysis

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: SCR 322 D–324 G

Source role: judicial text

4.

Topic: Article 39, unchanged business, and use of earlier cases

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: SCR 324 G–326 H

Source role: judicial text

5.

Topic: Indian Chamber criticism distinguished from blanket overruling

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: SCR 327 A–328 D

Source role: judicial text

6.

Topic: Fact-bound exemption, future reserve caveat, disposition and costs

Source url: [Open cited source](#)

Pdf pages: 10

Paragraphs: SCR 328 D–G

Source role: judicial text

7.

Topic: Subsequent Dharmaposhanam distinction and never-intended-object exception

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 1036 C–1037 B

Source role: later direct treatment in separately reviewed judgment

8.

Topic: Majority's affirmative use of Dharmodayam and linked activity test

Source url: [Open cited source](#)

Pdf pages: 27; 28; 29; 30; 31; 32; 33; 34

Paragraphs: SCR 103 D–110 D

Source role: bounded later direct treatment

9.

Topic: Majority/concurrence result and separately identified dissent

Source url: [Open cited source](#)

Pdf pages: 35; 42; 43; 57; 64

Paragraphs: SCR 111 A–B; 118–119 C; 133 C–G; 140 B

Source role: bounded later opinion allocation

10.

Topic: Later statutory version and commercial-activity limits

Source url: [Open cited source](#)

Pdf pages: 73; 84; 85; 86; 87; 141; 142

Paragraphs: Paragraphs 129–130, 150–154 and 253(A.1)–(A.4)

Source role: bounded later judicial comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Y.V. Chandrachud, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961: historical sections 2(15) and 11(1)(a), compared with the earlier 1922 Act exemption

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922: section 4(3)(i), including proviso (b), and section 66(1) in the earlier litigation; Indian Income-tax Act, 1922: section 15B in discussion of East India Industries only; Companies legislation and the company's article 39 as factual background; no independent company-law ruling

SEPARATE JUDICIAL OPINIONS AND POSITIONS

None; one judgment for the Court

ORIGINATING PROCEEDINGS

Kerala High Court Income Tax Reference No. 75 of 1971; Kerala High Court O.P. No. 1588 of 1969; Kerala High Court O.P. No. 637 of 1972; Common judgment and orders dated 5 October 1972

SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256

0767dfda33330129ecf52d4070f9afa177641b85b995aea4d69dee305b725fd2. Original bytes preserved.

Unnumbered judicial body begins physical page 3/SCR 321 C and ends page 10/SCR 328 G. Pages 1–2 and opening page 3 contain editorial headnotes, followed by appellate metadata. One judgment by Chandrachud J. for the two-judge Court; no separate opinion or neighbouring judgment.

Open cited source rendition

Decision date is 22 August 1977, although the report and asset are 1978. The printed title is Dharmodayan & Co.; the judicial body and later cases also use Dharmodayam.; The original appellate heading gives Civil Appeal Nos. 1521–1523/1973 and three originating proceedings. The catalogue's single Civil Appeal 1521/1973 is incomplete.; The present reference's AY is 1968-69. Earlier AYs 1952-53 to 1956-57 belong to the previous 1922 Act litigation; no assessment years are invented for the two companion writ matters.; The original is an independent construction/application of sections 2(15) and 11(1)(a), not solely a 1922 Act decision and not merely a refusal of leave.; The Court expressly rejects reliance on an earlier headnote's overruling label. Its own fact-bound distinction, and Surat's subsequent majority reliance, control over that editorial label.; The reserve ruling leaves future denial of exemption open and must not be described as unlimited accumulation permission.; The source gives two inconsistent dates, 20 and 30 December 1961, for the earlier High Court judgment at SCR 322 and 324. This note does not choose between them; neither changes the verified 1977 Supreme Court decision date.; AUDA's later-law comparison is dated 2022; its apparent paragraph 153(b) numerical slip is not adopted over the coherent conclusion in paragraph 253(A.2).

The present reference is expressly identified as AY 1968-69. The two accompanying writ-notice proceedings have no separately identified assessment years in the judicial narrative. AYs 1952-53 through 1956-57 concern the earlier 1922 Act litigation, not additional present assessment years.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. Identify the applicable statutory version and exemption conditions separately.

LATER TREATMENT

Source checked 2026-10-05. not_verified. Bounded direct subsequent treatment: the separately fully read Dharmaposhanam judgment, physical pages 7–8/SCR 1036 C–1037 B, distinguishes Dharmodayam; Surat Art Silk majority, pages 27–29/SCR 103 D–105 H, affirmatively relies on its funding-business analysis, with the linked actual-conduct/predominant-profit reasoning read through page 34. Sen's passage at page 57 is dissent. Bounded AUDA comparison concerns later statutory regime, not a fresh adjudication of this assessee or every proposition here. No comprehensive later search, post-2022/current-law verification or 2025 mapping.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 10](#)

SHA-256: 0767dfda33330129ecf52d4070f9afa177641b85b995aea4d69dee305b725fd2

[later judgment direct comparison - PDF pages: 8](#)

SHA-256: 87bde67eae17ee991f98c5485795a0e5b6e9c537ade673107b9bfceae8e2dcd2

[later judgment bounded check - PDF pages: 64](#)

SHA-256: 0984cbcd2aa431d7cd395dccc1e0d7b7fd51be7b91dc813037289a839c8fdff

[later judgment bounded check - PDF pages: 149](#)

SHA-256: 337506bb14011d607bd09bff7abb821aa77aa618be94632ed8edc1716667f33f

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