

TOLARAM BIJOY KUMAR v. COMMISSIONER OF INCOME TAX, ASSAM

Civil Appeal No. 1980 of 1972; Originating High Court proceedings: I.T.R. No. 6 of 1968
[1978] 2 SCR 834 | 1978-02-14

Tolaram's partnership share derived from an established joint-family business remained property of his branch family after partition. Its income was assessable to that family, rather than to him individually.

3-judge bench | M. H. Beg, C.J. | P. N. Bhagwati, J. | V. D. Tulzapurkar, J.

Trace the family-property source

This holding depends on the established family-business nucleus. It does not decide present statutory recognition of partial partitions or every modern succession question.

Operative context: Indian Income-tax Act, 1922; 25A.

01 FACTS OF THE CASE

Narmal's business had been assessed as Hindu undivided family income for years. After his death, his three sons partitioned it with effect from 6 April 1949 and executed a partnership deed the following day. The deed acknowledged its earlier joint-family character. An application under section 25A was made in 1950 and the partition was recorded in 1954.

The firm was dissolved in March 1959 and a new petrol-depot partnership formed. Although Tolaram's individual-income claim succeeded on appeal for 1959-60, the claim for 1960-61 was rejected after consideration of fresh material. The disputed partnership income was Rs. 21,746. The Tribunal and Assam and Nagaland High Court held it assessable to the appellant family, which came to the Supreme Court through its karta Tolaram.

Source: [SCR 835 A-G](#)

02 DISCUSSION BY THE HON'BLE COURT

The decisive finding was that the business before partition belonged to the joint family. It was not a new business acquired by members independently under an ordinary partnership contract. The earlier assessments, absence of protest and express deed recital supported that finding; the Court found it neither unreasonable nor perverse.

Following N. V. Narendranath, the Court explained that a dividing coparcener takes the allotted share as representing his branch. A partition severs the claims of the other dividing coparceners but does not necessarily convert the property into the recipient's individual property as against his own family.

The passage relied on from Chiranji Lal did not assist because the character of the divided nucleus was established here. Tolaram's share in the partnership that followed the partition became property of the joint family of himself and his sons. The reasoning rests on the traced family-property character and the accepted findings; it does not announce that every partnership interest held by a family member is family property.

Source: [SCR 835 H:836 A-H:837 A-H:838 A-C](#)

03 JUDICIAL DECISION

The Court dismissed the appeal and upheld inclusion of Rs. 21,746 in the family's assessment. In the circumstances, it made no order as to costs.

Source: [SCR 838 C-D](#)

04 OUTCOME / IN WHOSE FAVOUR

Appeal dismissed. Result: Revenue. Costs: No order as to costs. Scope: Family attribution of partnership income upheld. Limit: Established joint-family business and branch-family title after this partition.

Source: [SCR 838 D](#)

05 AKHB REVIEW POINT

Trace the capital's ownership through the pre-partition business, partition instrument and partnership accounts. Keep the underlying family-title question separate from statutory recognition of a partition for tax purposes. An earlier year's favourable result does not erase fresh factual findings. Later partial-partition restrictions and changed succession law require their own analysis.

Source: [SCR 835 B-F:836 D-E:838 B-C](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

5-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

The appellant is the HUF acting through karta Tolaram. Printed title and dockets retained; the cited Narendranath discussion is not a separate disposition of this appeal. Section 25A appears as partition-recording background, not as a ruling on later statutory partial-partition rules.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 25A.

The 2011 section 171 regime separately governs tax recognition of partitions; 171(9) disregards partial partitions after 31 December 1978. Section 10(2A) exempts the specified share of a separately assessed firm, not every partner payment. These do not rewrite the old family-title holding.

Section 315(8) retains the post 31 December 1978 partial-partition restriction. Section 11 with Schedule III item 2 separately addresses a partner's profit share in a firm assessed as such, in the deed's profit-sharing ratio. Ownership, partition recognition and exemption remain different questions.

The 2025 Act commenced 1 April 2026. Section 536 preserves 1961 proceedings/procedure for tax years beginning before that date and pending proceedings; compare the actually applicable law.

Related-section tags are research cross-references, not provisions decided in this judgment or verified mappings beyond the specific comparisons and source bounds below.

No automatic precedent carry-over or verified case-specific 2025 applicability is claimed.

LATER TREATMENT

Source checked 2026-10-07. No separate later judicial use is verified in this bounded review. No inference of absence of later treatment is made.

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

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961, as amended by Finance Act 2011; supplied DOR compilation](#)

Sections 171(1),(9),10(2A); physical 769-771,81-82; printed 1.728-1.730,1.40-1.41. Selected text only; not current 1961 consolidation or image verification.

[Income-tax Act, 2025, as amended by Finance Act 2026](#)

Section 315 physical 409-411 lines 16728-16789; section 11 physical 40; Schedule III item 2 physical 600 lines 25095-25103. Selected web-extracted text; no raw-PDF/image verification or all-amendments certificate.

[Statutory comparison pinpoint](#)

Section 315 physical 409-411 lines 16728-16789; section 11 physical 40; Schedule III item 2 physical 600 lines 25095-25103.

[Statutory comparison pinpoint](#)

Section 1(3), physical 1; section 536(2)(c),(e), physical 584-585, extracted lines 24385-24408.

AI DISCLOSURE

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

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