

Dharmadeepti, Alwaye, Kerala v. The Commissioner of Income Tax, Kerala

Civil Appeal No. 82 of 1975

[1978] 3 SCR 1038 | 1978-07-24

Did the historical activity-for-profit restriction qualify the named heads of relief of the poor and education, and was this company's power to conduct kuries confined to those charitable purposes?

2(15) (historical definition; scope of profit restriction) | 11(1)(a) (exemption of the disputed income) | 13(1)(bb) (later restriction effective 1 April 1977, discussed but not applied to AY 1969-70) | 256(1) (reference route) | 261 (certificate appeal route)

Three-judge bench | Y.V. Chandrachud, C.J. | D.A. Desai, J. | R.S. Pathak, J.

Assessment years: 1969-70

Pre-1977 exemption and specific ancillary-business power

This decision grants exemption only for AY 1969-70 under the historical statute and the particular memorandum: kurie income was confined to relief of the poor and education, and the business was held under trust. The effect of other-business objects and Companies Act section 149 was not decided. The judgment itself notes the later section 13(1)(bb); subsequent primary decisions endorse the head-of-charity distinction without certifying this historic exemption for later years. Comprehensive later treatment, current-law status and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The association obtained a section 25 Companies Act licence on 5 January 1967. Its main objects were to give charity and promote education, with a further power to establish or assist bodies serving those two objects. Running chitties or kuries appeared in the memorandum's separate list of objects incidental or ancillary to the main objects. Another clause listed other businesses the company might consider profitable or advantageous (physical pages 2-3/SCR 1039-1040).

For AY 1969-70, covering kurie income earned in calendar year 1968, the Income-tax Officer rejected exemption. The Appellate Assistant Commissioner held education to be the main object and the kurie activity to be in aid of it; the Tribunal agreed. On the Revenue's reference, the High Court answered the exemption question against the association. The association appealed by certificate under section 261 (physical pages 2-4/SCR 1039 F-1041 A).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court construed the memorandum in context. Giving charity alongside a separate education object meant relief of the poor; it did not use charity as an unrestricted label encompassing all four heads. The clause empowering support for other associations served those two main objects rather than creating a third independent purpose. Neither main object therefore belonged to the residual general-public-utility head (physical page 4/SCR 1041 B-D).

The Court independently analysed the definition's history and structure. The restrictive activity-for-profit words qualified only advancement of other objects of general public utility, not relief of the poor, education or medical relief. The broader Indian definition had differed from English charity law; Parliament's restriction of the residual head did not qualify the preceding named heads. The Court also expressly noted the later section 13(1)(bb), introduced with effect from 1 April 1977. Its statement about the earlier absence of that business-income restriction is confined to the earlier statutory period; it is not a waiver of every condition governing section 11 or a current-law assurance (physical pages 4-5/SCR 1041 D-1042 C).

The power to run kuries was expressly ancillary to attaining the two main objects. The income could be applied only to those charitable purposes, consistent with the section 25 licence. No question arose on this record of applying that income to the other-business clause. Consequently, the Court did not decide the effect of including those other objects or whether pursuing them would require the Companies Act section 149 formalities. The fact that the kurie business was held under trust was undisputed. Its income thus qualified as income from property held under trust for charitable purposes for this year (physical page 5/SCR 1042 D-H).

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

03 JUDICIAL DECISION

The appeal was allowed. The High Court's judgment of 12 June 1974 was set aside, and the referred question was answered affirmatively for the assessee and against the Commissioner. The appellant was awarded its costs of the appeal. The Court granted the disputed exemption for AY 1969-70 without a remand (physical pages 5-6/SCR 1042 G-1043 A).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal allowed; High Court judgment set aside; reference answered affirmatively; assessee receives appeal costs

Final exemption of this trust-held ancillary kurie-business income for AY 1969-70

Contextual construction of the specific main objects and ancillary power, under the pre-1 April 1977 scheme. Effect of other objects and Companies Act section 149 requirements left undecided.

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

05 AKHB REVIEW POINT

The useful distinction is between a defined charitable purpose and a subordinate income-producing power. Here the drafting structure restricted the kurie income to relief of the poor and education, and the business itself was undisputedly held on trust. A broad clause authorising some other business was not held universally harmless; its effect and the company-law route were expressly left open because the disputed income could not be applied to it.

Later treatment should be stated accurately. Surat Art Silk's three-judge opinion expressly accepted Dharmadeepti's first-three-heads distinction at SCR 94 F-G and cited its essentially-charitable-purpose reasoning at SCR 107 A. AUDA paragraph 126 again expressly endorsed that distinction, while paragraphs 126-130 described later statutory changes. That limited endorsement does not make the historic business-income exemption timeless: the applicable versions of the business-income and exemption provisions must still be checked. No current exemption or 2025 crosswalk is certified (Surat physical pages 18 and 31; AUDA physical pages 71-73).

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, bench and certificate appeal

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 1038 heading; 1039 E-G

Source role: reported metadata and judicial text

2.

Topic: Licence, main/ancillary/other objects and assessment history

Source url: [Open cited source](#)

Pdf pages: 2; 3; 4

Paragraphs: SCR 1039 G-1041 A

Source role: judicial text

3.

Topic: Contextual construction of giving charity and education

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: SCR 1041 B-D

Source role: judicial text

4.

Topic: Profit restriction attaches only to the historical residual head

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 1041 D–1042 C

Source role: judicial text

5.

Topic: Ancillary income restriction and express reservation of other-object/company-law issues

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 1042 D–F

Source role: judicial text

6.

Topic: Trust-held business, AY 1969-70 exemption, relief and costs

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 1042 G–1043 A

Source role: judicial text

7.

Topic: Majority expressly accepts Dharmadeepti's first-three-heads rule

Source url: [Open cited source](#)

Pdf pages: 18; 31

Paragraphs: SCR 94 F–G; 107 A

Source role: bounded later direct treatment

8.

Topic: Opinion allocation and dissent's separate description

Source url: [Open cited source](#)

Pdf pages: 10; 43; 57; 64

Paragraphs: SCR 86 E; 119 B–C; 133 C–G; 140 B

Source role: bounded later opinion allocation

9.

Topic: Express later endorsement of Dharmadeepti and statutory-version limits

Source url: [Open cited source](#)

Pdf pages: 71; 72; 73

Paragraphs: Paragraphs 126–130

Source role: bounded later direct treatment

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R.S. Pathak, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961: historical sections 2(15) and 11(1)(a), before section 13(1)(bb) took effect

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Companies Act, 1956: sections 25 (licence) and 149 (question expressly unnecessary to decide); Indian Income-tax Act, 1922: section 4(3), definition compared historically

SEPARATE JUDICIAL OPINIONS AND POSITIONS

None; one judgment for the Court

ORIGINATING PROCEEDINGS

Kerala High Court Income Tax Reference No. 77 of 1972; judgment dated 12 June 1974

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

02fd06af59e09d0dc1c5e2730e2785ec9701617993cb61d673347cabab17071b. Original bytes preserved.

Unnumbered judicial body begins physical page 2/SCR 1039 F and ends page 6/SCR 1043 A. Page 1 and opening page 2 contain editorial headnotes, followed by appellate metadata. One judgment by Pathak J. for the three-judge Court; no separate opinion or neighbouring judgment.

[Open cited source rendition](#)

The company's precise main-object wording and the separate ancillary-powers heading control the result; an unrestricted object simply called charity was expressly distinguished.; Other-business objects in clause 3(c) were not generally approved. Their effect and the Companies Act section 149 formalities were expressly unnecessary to decide.; Section 13(1)(bb), effective 1 April 1977, is a later restriction discussed in the judgment; the decided assessment year is 1969-70.; The first-three-heads distinction concerns the historical section 2(15) profit qualification. It does not erase application, business-income, registration or other requirements under the statutory version relevant to a different year.; Surat's majority directly relies on Dharmadeepti under the variant spelling Dharamdipti. Sen's later discussion is dissent; it does not turn this judgment into an overruled case.

AY 1969-70 relates to kurie-business income of calendar year 1968. No other assessment year is decided in this appeal.

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 later treatment: Surat Art Silk, Bhagwati J. for three judges, physical page 18/SCR 94 F-G and page 31/SCR 107 A, expressly relies on Dharmadeepti; the similarly named reference on page 57 is in Sen's dissent and is not substituted for the majority. AUDA paragraph 126, physical pages 71-72, expressly endorses the first/per-se-heads distinction; surrounding paragraphs 127-130 discuss changed statutes. The statutory history is reported only to the extent of those primary judicial passages, not an independently authenticated amending-Gazette chain. No comprehensive later history, post-2022/current-law check or 2025 mapping.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 6](#)

SHA-256: 02fd06af59e09d0dc1c5e2730e2785ec9701617993cb61d673347cabab17071b

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

SHA-256: 0984cbcd2aa431d7cd395dcd1e0d7b7fd51be7b91dc813037289a839c8fdff

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

SHA-256: 337506bb14011d607bd09bff7abb821aa77aa618be94632ed8edc1716667f33f

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