

Dharmaposhanam Co., Kerala v. Commissioner of Income Tax, Kerala

Civil Appeal Nos. 6–12 of 1975

[1978] 3 SCR 1030 | 1978-07-24

Did the company's original and amended objects make its kurie and money-lending business property held wholly for charitable purposes under the historical sections 2(15) and 11(1)(a)?

2(15) (historical definition including the activity-for-profit restriction) | 11(1)(a) (exemption claimed) | 11(4) (business as trust property; contextual support) | 13(1)(bb) (contextual reference, not a retrospective application to these years) | 256 (reference route)

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

Assessment years: 1962-63, 1963-64, 1964-65, 1965-66, 1966-67, 1967-68, 1968-69

Historical profit premise materially qualified by later authority

This seven-appeal decision denied exemption for AYs 1962-63 to 1968-69 under the old section 2(15). Its reliance on a profit inference and absence of a no-profit restriction cannot be stated as an unqualified rule after Surat Art Silk; the mixed-primary-objects analysis must be considered separately. The direct Dharmaposhanam passage in Surat at SCR 133 is dissent. This note does not label the entire case expressly overruled or certify an exemption under later law. Comprehensive later treatment, current-law status and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The company raised funds by conducting kuries, receiving donations and subscriptions, and money lending. Its original memorandum included promotion of charity, education, industries and public good. Article 58 prohibited division of profit among members but allowed remaining profit to support education, industry, social welfare and other common-good purposes chosen by the general meeting. For AYs 1962-63 to 1965-66, the Tribunal denied exemption of the kurie and money-lending income, and the company obtained a reference (physical pages 3–4/SCR 1032–1033).

On 7 June 1965 the company removed industries from the relevant objects, added medical relief, and retained other matters of public good. The amended article referred to common-good purposes such as charity, education and medical relief. The Tribunal allowed exemption for AYs 1966-67 to 1968-69 because of those changes, and the Revenue obtained references. On 12 June 1974 the High Court answered against the company for all seven years. The company's seven appeals challenged that common result (physical pages 2–4/SCR 1031–1033).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted that a business is property for section 11(1)(a), supported by section 11(4), and that these businesses were held under trust. It treated the fund-raising clause as conferring powers to accomplish the company's substantive objects. The remaining inquiry was whether the trust was wholly for charitable purposes (physical pages 4–5/SCR 1033 F–1034 C).

Under the definition then in force, industries and public/common good fell within the residual general-public-utility head, qualified by the activity-for-profit restriction. The Court found no limiting provision preventing profit-making in carrying out those objects. It relied on observations in *Loka Shikshana Trust* and the chamber-of-commerce decision reported at 101 ITR 796; it expressly recorded that their correctness had not been challenged. This reliance is historically important: the subsequent *Surat Art Silk* majority rejected the automatic-profit inference and absence-of-no-profit-clause reasoning, as separately explained below (physical pages 5–6/SCR 1034–1035).

On the construction adopted in this judgment, clause 3(b) contained charitable and non-charitable objects of equal status, and the company could choose any of them for application of income. No definite part of the business or income was confined to charitable purposes. The whole claim therefore failed for the first four years. The amendments did not cure that defect for the later three years: other matters of public good remained a distinct object, even though the article associated common good with named charitable activities (physical pages 6–7/SCR 1035 E–1036 C).

The Court distinguished *Dharmodayam*. That decision depended on the earlier finding for the same assessee that the kurie business itself was held under trust for charitable purposes, from which the Court inferred it was not an activity undertaken to advance a general-public-utility object. There was no equivalent finding for *Dharmaposhanam*, and *Dharmodayam* had expressly confined itself to its own facts. A trust's character generally requires examination of all its objects; actual application to charity alone does not neutralise a power to apply funds to non-charitable purposes. The Court nevertheless recognised an evidential exception: clear proof that a listed object was never intended to be undertaken can justify disregarding it. Mere inactivity or selective charitable expenditure was not stated to be enough (physical pages 7–8/SCR 1036 C–1037 B).

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

03 JUDICIAL DECISION

The Court affirmed the High Court's negative answers in all the references, in favour of the Revenue and against the assessee. It dismissed Civil Appeal Nos. 6–12 of 1975 with costs limited to one set. There was no remand or partial exemption for any of the seven years (physical page 8/SCR 1037 B–C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Seven appeals dismissed; High Court's negative reference answers affirmed; costs in one set

Final denial of the disputed kurie and money-lending exemption on the historical statutory construction and objects before the Court

AYs 1962-63 through 1968-69 and the original/amended objects examined; subsequent rejection of the automatic-profit premise must be read alongside the separate mixed-primary-objects analysis.

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

05 AKHB REVIEW POINT

Separate the character of the business asset, the substantive objects, and the powers for funding those objects. Establishing that a business is held on trust or that members cannot receive dividends did not, by itself, answer the wholly-charitable-purpose question. The original judgment also requires clear evidence before disregarding a listed object as never intended to be pursued.

The historical profit reasoning cannot be repeated without its later qualification. In *Surat Art Silk*, Bhagwati J.'s three-judge opinion rejected the Indian Chamber construction and the inference that profit, coupled with no express profit prohibition, necessarily makes the activity non-charitable. Its test examined the activity's predominant object, manner of operation and circumstances. This materially displaces the profit premise used here; it is not a checked basis for saying every proposition in *Dharmaposhanam* was expressly overruled. *Surat* separately retained the rule for independently distributive charitable and non-charitable primary objects. The express discussion of *Dharmaposhanam* at SCR 133 is in Sen J.'s dissent, not the majority (*Surat* physical pages 16, 27, 29–35 and 57).

AUDA's 2022 discussion distinguishes the later amended general-public-utility regime: dominant charity or reinvestment alone cannot displace the amended commercial-activity limits. Activity character, statutory connection and the applicable year's receipt limits require separate examination. These are bounded later comparisons, not a present exemption opinion (AUDA paragraphs 95–97, 129–130, 150–154 and 253(A), physical pages 56–58, 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: Identity, date, bench and seven appeals

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 1030 heading; 1031 G–H

Source role: reported metadata

2.

Topic: Original and amended objects; two AY groups and procedural history

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 1032 A–1033 F

Source role: judicial text

3.

Topic: Business as trust property and funding powers

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 1033 F–1034 C

Source role: judicial text

4.

Topic: Historical profit premise and mixed equal-status objects

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 1034 C–1035 H

Source role: judicial text

5.

Topic: Post-amendment objects and fact-bound Dharmodayam distinction

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: SCR 1036 A–E

Source role: judicial text

6.

Topic: All objects, never-intended-object exception, final order and costs

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 1036 F–1037 C

Source role: judicial text

7.

Topic: Later majority: mixed primary objects distinguished from ancillary powers

Source url: [Open cited source](#)

Pdf pages: 16

Paragraphs: SCR 92 C–F

Source role: bounded later judicial comparison

8.

Topic: Later majority rejects Indian Chamber construction and automatic profit inference

Source url: [Open cited source](#)

Pdf pages: 27; 29; 30; 31; 32; 33; 34; 35

Paragraphs: SCR 103 A–C; 105–110; 111 A–B

Source role: bounded later judicial comparison

9.

Topic: Direct named Dharmaposhanam discussion is in Sen's dissent

Source url: [Open cited source](#)

Pdf pages: 43; 57; 64

Paragraphs: SCR 119 C; 133 C–G; 140 B

Source role: bounded later opinion allocation

10.

Topic: Later historical and changed-definition context

Source url: [Open cited source](#)

Pdf pages: 56; 57; 58; 71; 72; 73

Paragraphs: Paragraphs 95–97 and 125–130

Source role: bounded later judicial comparison

11.

Topic: Changed commercial-activity test and qualified general conclusion

Source url: [Open cited source](#)

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

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

Source role: bounded later judicial comparison

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) governing AYs 1962-63 to 1968-69

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Companies Act, 1913: section 26(1), as applied to Cochin; company formation context

SEPARATE JUDICIAL OPINIONS AND POSITIONS

None; one judgment for the Court

ORIGINATING PROCEEDINGS

Kerala High Court Income Tax Reference Nos. 51–56 and 79 of 1972; judgment dated 12 June 1974

SOURCE & VERIFICATION

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

Identified source rendition: 8 PDF pages; SHA-256

87bde67eae17ee991f98c5485795a0e5b6e9c537ade673107b9bfceae8e2dcd2. Original bytes preserved.

Unnumbered judicial body begins physical page 3/SCR 1032 A and ends page 8/SCR 1037 C. Pages 1–2 contain editorial headnotes; appellate metadata follows the headnotes on page 2. One judgment by Pathak J. for the three-judge Court; no separate opinion or neighbouring judgment.

Open cited source rendition

The original appellate heading gives seven appeals, Civil Appeal Nos. 6–12/1975, not merely the catalogue's Civil Appeal 6/1975.; The company's amendments are dated 7 June 1965; the judgment separates AYs 1962-63 to 1965-66 from AYs 1966-67 to 1968-69.; At SCR 1033 the printed report uses section 11(1)(e) once while discussing business as property; the surrounding judicial text, issue and relief consistently concern section 11(1)(a). The stray letter is not treated as a different operative provision.; The original report calls the 101 ITR 796 precedent Commissioner of Income-Tax, Kerala v. Cochin Chamber of Commerce and Industry. Surat discusses Indian Chamber of Commerce at that citation. The printed discrepancy is disclosed rather than silently converted into an independently checked precedent identity.; The original Court proceeded on the unchallenged earlier profit authorities. Surat's later rejection of that premise is distinct from the enduring question whether objects are independent primary objects or merely ancillary powers.; Sen J.'s discussion of Dharmaposhanam in Surat at physical page 57 is dissent only. It is not a majority endorsement or majority overruling.; The existence of a power to fund non-charitable purposes and clear evidence an object was never intended to be undertaken must not be reduced to an actual-expenditure-only test.; AUDA paragraph 153(b) has an apparent textual slip about exceeding 20%; the bounded comparison follows the coherent limit formulation in paragraph 153(c) and conclusion 253(A.2).

The first four assessment years were considered under the original memorandum/articles; the last three under amendments made on 7 June 1965. The report does not individually allocate each Supreme Court appeal to a year.

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 subsequent primary comparison: Surat Art Silk majority, physical pages 16, 27–35, for distributive objects, rejection of the Indian Chamber construction, actual activity and predominant-profit test; separate concurrence/result at pages 42–43; direct Dharmaposhanam reference at page 57 is dissent. The identified majority passages displace the automatic-profit premise without establishing a blanket express overruling of this entire case. AUDA pages 56–60, 71–73, 84–87 and 141–142 provide a dated historical/amended-law comparison. No comprehensive citing-case search, post-2022 verification, current-law certification or 2025 mapping.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 8

SHA-256: 87bde67eae17ee991f98c5485795a0e5b6e9c537ade673107b9bfceae8e2dcd2

later judgment bounded check - PDF pages: 64

SHA-256: 0984cbcd2aa431d7cd395dcd1e0d7b7fd51be7b91dc813037289a839c8fdff

later judgment bounded check - PDF pages: 149

SHA-256: 337506bb14011d607bd09bff7abb821aa77aa618be94632ed8edc1716667f33f

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