

Commissioner of Income Tax, Kerala v. Ambat Echukutty Menon

Civil Appeal No. 2242 of 1972 / Civil Appeal No. 2243 of 1972 / Civil Appeal No. 2244 of 1972 / Civil Appeal No. 2245 of 1972 / Civil Appeal No. 2246 of 1972 / Civil Appeal No. 2247 of 1972
[1980] 1 SCR 539 | 1979-09-06

Were these tree-sale receipts taxable income merely because roots and stumps were retained, or did the established cultivation purpose make the receipt capital/non-revenue, with consequential effect on the quantum and four penalty appeals?

148 | 271(1)(a) | 273(b)

Two judges | N.L. Untwalia, J. | R.S. Pathak, J.

Assessment years: 1961-62

Fact-specific tree-sale result; two distinct opinions and old-period proceedings

Retention of roots or a single sale does not by itself decide capital versus revenue. The accepted cultivation purpose, protection of the soil, absence of intended regeneration, unrejected evidence and subsequent conversion were central. Untwalia J applied Vishnudatta by analogy; Pathak J expressly placed the case outside both leading precedents. Four penalty appeals and the whole-price appeal were dismissed consequentially. AY 1961-62 does not become a later year merely because the judicial body names 1961 Act sections 148, 271(1)(a) and 273(b); no section 297 ruling is made. The alternative agricultural exemption and a separate capital-gains charge were not decided. The later disapproval of the same-named 1978 Kerala mortgage case is not disapproval of this judgment. Comprehensive later treatment, current-law applicability and 2025 mapping remain not_verified.

01 FACTS OF THE CASE

The assessee was a Hindu undivided family owning agricultural land in Kerala. In 1905 it bought about 200 acres at court auction, with two irrigation channels. The Sanad described about 772 trees of various kinds; other spontaneous-growth trees were interspersed among paddy fields. By an agreement of 28 November 1960 it sold trees from about 60 acres to Velappa Rowther. Later agreements deferred and spread payments because the original payment terms could not be met. The ITO treated roughly 367 trees, after excluding four varieties, as sold trees of spontaneous growth. Neither the whole holding nor the whole sale area was described as a thick, continuous forest (physical 3 G-4 G and 10 C-D/SCR 541-542, 548).

The family did not voluntarily file a return, believing the proceeds non-taxable. The ITO's letter of 28 February 1963 referred to information that it had received Rs. 75,000 in the relevant year. On 3 April 1963 the family replied that it had sold standing timber, except specified varieties, to extend cultivation, and that the receipts were capital or alternatively agricultural income. Following a section 148 notice under the 1961 Act, it filed a return on 25 March 1966 showing net income of Rs. 626.63 for the previous year ended 31 March 1961. The notice's exact date is not stated (physical 4/SCR 542 A-F).

The ITO assessed the full Rs. 1,75,000 sale amount on an accrual view although it had not all been received in the accounting year. The AAC restricted assessment to Rs. 75,000 actually received. The Tribunal dismissed both sides' appeals on 16 November 1968. The assessee's main reference asked whether the spontaneous-growth tree receipts were assessable and, if so, under other sources. Revenue's reference concerned taxation of the entire Rs. 1,75,000 in the same year. The High Court treated the receipts as capital and answered both in the assessee's favour. Four references connected with sections 271(1)(a) and 273(b) penalties were also disposed of in its favour (physical 4 G-6 C/SCR 542-544).

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

02 DISCUSSION BY THE HON'BLE COURT

Untwalia J first explained that the main receipt-character appeal, CA 2247, determined the other five. The penalty provisions concerned alleged failure to furnish the return and alleged failure to furnish an advance-tax estimate. No separate penalty-elements or quantum ruling was needed once the main Revenue appeal failed (physical 5 G-6 C/SCR 543-544).

The earlier cases did not establish that every sale of trees was capital or that every retained stump produced revenue income. Untwalia J reviewed revenue cases concerning timber as the land's yield or commercial realization, and capital cases concerning sale of capital trees, uprooted trees, shade trees or clearing for plantation. Venugopala's clear-felling arrangement left roots and stumps for regeneration and further income. Vishnudatta concerned trees removed with their roots, destroying the source of further growth. Untwalia J acknowledged that the older Shaw Wallace formulation of a regular return had been substantially qualified; he used the cited tree cases to focus on the object of felling, not to impose an absolute recurrence requirement (physical 6 D-9 F/SCR 544-547).

Under Untwalia J's approach, retaining roots and stumps of spontaneous-growth trees ordinarily supports a presumption of intended regeneration of income. Actual later regeneration is unnecessary if that is the object. But exceptional facts can establish a different purpose, such as protecting land for cultivation. Clauses 12 and 13 required neat cutting, prohibited removal or cutting of stumps and prevented the purchaser from returning to cut sprouts. The terms alone did not explain the family's purpose (physical 9 C-10 B/SCR 547-548).

The accepted surrounding evidence supplied that purpose. The family had consistently described this as its first and last tree sale, undertaken to extend cultivation; the trees were scattered among fields, and ten acres had become cultivable by completion of the assessment. The Tribunal had neither rejected that stand nor found an income-regeneration purpose. It had treated the matter as a failed exemption claim based on the family's omission to identify non-regenerating tree varieties. Untwalia J rejected that treatment in the setting of a regular assessment on the materials supplied: no further material had been called for, and the stated cultivation purpose was not disbelieved. To treat the receipt as revenue on this record, Revenue had to reject that account and establish the contrary object. He upheld the High Court's distinction of Venugopala and application of Vishnudatta, while stressing the thin but real factual dividing line (physical 10 C-11 H/SCR 548-549).

Pathak J concurred in dismissal but gave separate reasons. Intention and subsequent conduct were material; merely selling trunks while leaving roots and stumps did not necessarily establish a profit-making activity. Here the retained roots protected the surface from indiscriminate damage, the land was intended for cultivation, regeneration was not to be permitted and cultivation followed. He expressly regarded the case as falling within neither Venugopala nor Vishnudatta, because the latter involved actual uprooting. His concurrence therefore must not be described as an unqualified adoption of Untwalia J's precedent analogy or ordinary-presumption formulation. Their common ground was the particular cultivation

02 DISCUSSION BY THE HON'BLE COURT

purpose and absence of intended regeneration/profit-making activity on these facts (physical 11 H-12 G/SCR 549-550).

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

03 JUDICIAL DECISION

The High Court's favourable answer on the tree-sale receipts was upheld. The main Revenue appeal, CA 2247 of 1972, failed on the substantive capital/non-revenue character of the receipt on these facts. CA 2242 and the four penalty appeals failed as consequences. All six appeals were dismissed with no order as to costs in any of them (physical 6 B-C, 11 G-H and 12 G/SCR 544, 549-550).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee / respondent HUF

All six Revenue appeals dismissed; no order as to costs

Final substantive receipt-character decision with a separate concurrence and five consequential dismissals; no remand

No quantified tax reduction, refund or penalty amount supplied. No general holding that all tree sales, all one-off receipts or all capital receipts escape every tax charge. No independent agricultural-income exemption, capital-gains computation, accrual method, penalty-elements or transition-law determination.

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

05 AKHB REVIEW POINT

Read the contract with the proved purpose and conduct: what was to happen to the land, whether regeneration was intended, how the trees stood among existing cultivation, and whether actual conversion corroborated that purpose. Roots physically remaining is important evidence, but it is not an invariable revenue test. Preserve both opinions: Untwalia J accepted a general inference subject to these exceptional facts and applied Vishnudatta by analogy; Pathak J located the result outside either precedent on the established facts. The reasoning about Revenue rejecting the assessee's account belongs to this regular-assessment evidentiary setting and is not a universal reversal of every exemption burden.

The Court upheld capital/non-revenue treatment rather than separately deciding the alternative agricultural-income claim. A bounded check of the department's section 45(1) HTML version labelled Year 2021 shows why a later capital-gains charge must be considered independently where relevant; it is not resolved here. The later G.R. Karthikeyan judgment, in the selected pages, gives section 2(24) an inclusive, broad scope and treats even a casual receipt as potentially income. That is contextual caution against turning this tree-sale result into a general no-recurrence/no-income rule, not verified direct adverse treatment of Ambat.

Name-only adverse-treatment searches are unsafe. Fresh selected-page reading of R.M. Arunachalam, [1997] Supp. 2 SCR 64, identifies the disapproved Ambat decision as the distinct Kerala High Court mortgage-cost case, (1978) 111 ITR 880. Its actual adverse treatment is preserved for that decision and not attributed to this 1979 Supreme Court timber case. Direct later treatment of this holding has not been comprehensively verified. The 1961-62 assessment period, express later 1961 Act proceedings and merely consequential penalties must remain distinct; no unprinted transition conclusion is supplied. Current-law applicability and 1961-to-2025 mapping remain not_verified.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 2242 of 1972

Source reference: Revenue reference 29/1970

Outcome: Dismissed consequentially; whole-sale-price timing question falls with the capital/non-revenue conclusion; no independent cash-versus-accrual ruling

2.

Case number: Civil Appeal No. 2243 of 1972

Source reference: One of the four penalty references; individual reference/provision mapping not stated

Outcome: Dismissed consequentially; penalty provisions collectively sections 271(1)(a) and 273(b); no independently reasoned penalty-elements or quantum determination

3.

Case number: Civil Appeal No. 2244 of 1972

Source reference: One of the four penalty references; individual reference/provision mapping not stated

Outcome: Dismissed consequentially; penalty provisions collectively sections 271(1)(a) and 273(b); no independently reasoned penalty-elements or quantum determination

4.

Case number: Civil Appeal No. 2245 of 1972

Source reference: One of the four penalty references; individual reference/provision mapping not stated

Outcome: Dismissed consequentially; penalty provisions collectively sections 271(1)(a) and 273(b); no independently reasoned penalty-elements or quantum determination

5.

Case number: Civil Appeal No. 2246 of 1972

Source reference: One of the four penalty references; individual reference/provision mapping not stated

Outcome: Dismissed consequentially; penalty provisions collectively sections 271(1)(a) and 273(b); no independently reasoned penalty-elements or quantum determination

6.

Case number: Civil Appeal No. 2247 of 1972

Source reference: Assessee reference 30/1970

Outcome: Dismissed on main receipt-character merits; High Court answer favourable to assessee upheld

Costs: No order as to costs in any of the six appeals

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Printed identity/date, six-appeal range and judicial opening

Source role: identity and judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6

Paragraphs: SCR 541 F-544 C: facts, year, statutory proceedings, amounts and six-appeal relationships

Source role: judicial text

3.

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: SCR 544 D-547 F: prior cases, regeneration object and qualified ordinary inference

Source role: judicial text

4.

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: SCR 547 G-549 H: contract, unrejected purpose, actual conversion, main reasoning and all-six dismissal

Source role: judicial text

5.

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: SCR 549 H-550 G: full Pathak concurrence and no-costs result

Source role: judicial text

6.

Source url: [Open cited source](#)

Pdf pages: 13; 17; 18; 19

Paragraphs: SCR 76 G-H and 80 H-82 C: distinct Kerala mortgage-case identity and its disapproval

Source role: bounded auxiliary identity check

7.

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8; 9

Paragraphs: SCR 332-336: broader income context and casual-receipt reasoning, not direct Ambat treatment

Source role: bounded auxiliary doctrinal context

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

An old-period assessment, AY 1961-62, reached the Court through a section 148 notice expressly identified in the judicial body as under the 1961 Act, with actual section 271(1)(a) and section 273(b) penalty proceedings. The Court decides the substantive receipt-character issue and consequentially disposes of the other five appeals. It neither decides a section 297 transition issue nor identifies a charging-law allocation that may safely be inferred solely from the assessment year.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

N.L. Untwalia, J., with a separate concurring opinion by R.S. Pathak, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Capital-versus-revenue character and chargeability as income / other sources: substantive issue; the main judicial opinion does not identify a particular charging-section number; Indian Income-tax Act, 1922, section 4(3)(viii): quoted Venugopala precedent only; Madras Preservation of Private Forests Act, 1949 and rule 7: Venugopala clear-felling context, not a holding that these governed this assessee's land; Income-tax Act, 1961, sections 297, 45(1) and 2(24): bounded statutory/later-doctrinal context only, not provisions interpreted as the ratio of this case

DATED OFFICIAL STATUTORY HTML COMPARISONS AND READING LIMITS

1.

Kind: official department statutory HTML

Title: Income-tax Act, 1961, section 297: Repeals and savings

Url: [Open cited source](#)

Displayed version: Year 2004

Accessed at: 2026-10-05T19:30:53.626834+00:00

Read bounds: Official HTML title, Act and year label; section 297(1) and complete subsection (2)(a)-(m), corresponding web-extracted lines 38-85; amendment footnotes at lines 90-99 seen. Reliance is confined to the different transition routes in (a)-(d), (f) and (g).

Finding: Section 297(2)(d)(ii) uses the no-pending-section-34 condition, with sections 149/150 limits; (d)(i) preserves old-notice proceedings. Clauses (f)/(g) distinguish penalties by assessment-completion timing. These are bounded statutory-context checks, not a determination that any particular unadjudicated transition route governed Ambat.

Format: HTML web-extracted text

Raw html retained: False

Pdf integrity applicable: False

Full current amendment history verified: False

Current law certification: False

2.

Kind: official department statutory HTML

Title: Income-tax Act, 1961, section 45: Capital gains

Url: [Open cited source](#)

Displayed version: Year 2021

Accessed at: 2026-10-05T19:30:53.626834+00:00

Read bounds: Official HTML title, Act and year label and section 45(1), web-extracted lines 38-67. Additional subsection text was returned, but the note relies only on subsection (1).

Finding: The later historical text charges qualifying profits or gains from transfer of a capital asset, subject to statutory exceptions. It supports a caution that capital-receipt classification alone does not settle a distinct capital-gains charge. No conclusion is drawn about trees, agricultural land, cost or the relevant 1961-62 liability.

Format: HTML web-extracted text

Raw html retained: False

PDF integrity applicable: False

Full current amendment history verified: False

Current law certification: False

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 12 PDF pages; SHA-256

93129d5a040659ecea82ea91e0d2c3c98c59c6a123aa7f84c230e012070478ff. Original bytes preserved.

Open cited source rendition

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

Printed SCR identity, dates, bench and proceedings checked in primary images. Report year 1980 differs from the actual 1979 decision dates. Frozen INSC catalogue identifiers are not independently authenticated and are not used as verified neutral citations. Judicial paragraphs are unnumbered; physical-page and SCR band pinpoints used.

Reporter's headnotes occupy physical 1-3 C; both judicial opinions must be read.; The report year is 1980; the actual decision date is 6 September 1979.; The Sanad's about 772 trees, ITO's roughly 367 sold trees, 200-acre acquisition, about 60-acre sale area and ten acres converted are different quantities and evidentiary descriptions.; Original agreement date 28 November 1960; previous year ended 31 March 1961; return date 25 March 1966. Exact section 148 notice and assessment dates are not given.; Rs. 1,75,000 is the sale amount put in issue, Rs. 75,000 the amount received and assessed by the AAC, and Rs. 626.63 the returned net income. None is a Supreme Court tax/refund/penalty award.; No individual mapping of CAs 2243-2246 to penalty provisions or four High Court reference numbers is inferred.; The older section 4(3)(viii) reference and Madras forest rule arise in discussion of Venugopala, not an independently decided exemption or forest-law issue here.

All six appeals concern the single AY 1961-62 and previous year ending 31 March 1961. The later section 148 return was filed on 25 March 1966. These dates are kept separate. The actual date of the section 148 notice and assessment-completion date are not printed.

Six Revenue appeals by special leave. CA 2247 arises from the main assessee reference 30/1970; CA 2242 from Revenue reference 29/1970. CAs 2243-2246 concern the four penalty references, two for each penalty provision. The source does not individually allocate those four appeal numbers to provisions or to High Court references 71, 92, 97 and 98/1969. The proceedings recital gives the High Court order date as 1 December 1971.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk or present-day application. Complete amendment history, commencement, savings and later judicial treatment have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Only expressly bounded primary and statutory checks are verified. Comprehensive later treatment, current-law applicability and 1961-to-2025 mapping remain not_verified. No absence-of-adverse-treatment assurance is given.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 12](#)

SHA-256: 93129d5a040659ecea82ea91e0d2c3c98c59c6a123aa7f84c230e012070478ff

[bounded same name adverse treatment disambiguation - PDF pages: 19](#)

SHA-256: 4de0c115e81a1c8eb12d908fe4b788eaa14730cd7dc7eff62fef69005cfdcf09

[bounded later doctrinal context - PDF pages: 9](#)

SHA-256: ce734d14d3ad9546f4dbbe56fea408b8d9eaf7c23f81b5421064c7a1af708eef

[Income-tax Act, 1961, section 297: Repeals and savings](#)

[Income-tax Act, 1961, section 45: Capital gains](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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