

Commissioner of Income-tax, Madras v. K. S. Rathnaswamy

Civil Appeal Nos. 2007-2014 of 1972

[1980] 2 SCR 519 | 1979-12-18

Historical residence test: a coparcenary right did not prove that a dwelling was maintained for the assessee.

Indian Income-tax Act, 1922: section 4A(a)(ii) | Indian Income-tax Act, 1922: sections 28(1)(a), 34(1)(a) and 66A(2)

2-judge bench; unanimous judgment delivered by V. D. Tulzapurkar, J. | V. D. Tulzapurkar, J. | E. S. Venkataramiah, J.

Assessment years: Connected income-tax assessments and penalty proceedings

Historical statutory setting

The repealed 1922 Act residence test is not the operative day-count test under later income-tax legislation.

Fact and procedural limits

Apply the holding only within the facts, statutory text and procedural posture described in the primary report.

No current-law clearance

Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

01 FACTS OF THE CASE

The assessee's life and business were in Ceylon. He had a coparcenary right in an ancestral Orthanad house and stayed there during some short Indian visits, but no room was reserved for him and he neither received family income nor managed the family (SCR pp.521-524; PDF pp.3-6).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

A dwelling place meant an abode or home, and maintained for him imported the assessee's volition—maintenance at his instance and for his benefit. Fractional ownership and an unrestricted right to occupy were insufficient where the house served other family members and his stays were as a guest (SCR pp.524-530; PDF pp.6-12).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

All Revenue appeals were dismissed, sustaining non-resident status and cancellation of the consequential penalties (SCR p.530; PDF p.12).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee, on the particular evidence of maintenance and use (SCR pp.528-530; PDF pp.10-12).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: separate legal ownership from evidence that premises were actually maintained as the taxpayer's abode—funding, dedicated space, belongings, habitual use and directions matter (based on SCR pp.528-530; PDF pp.10-12).

Source: [Primary judgment: review point](#)

SOURCE & VERIFICATION

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The source verifies the stated identity, bench, statutory issue and operative order.

No exact source-hash, asset-ID, SCR-citation, docket or same-judgment match was found in the published corpus or reviewed archive.

STATUTORY SCOPE

The repealed 1922 Act residence test is not the operative day-count test under later income-tax legislation.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.