

Commissioner of Income Tax, Kerala v. Smt. P.K. Kochammu Amma, Peroke

Civil Appeal No. 1086 of 1973

[1981] 1 SCR 781 | 1980-09-23

Whether omission from the AY 1964-65 return of spouse/minor-child partnership income includible under the historical section 64 provisions justified concealment penalty, given the return form and the binding larger-bench decision in Muthiah Chettiar.

271(1)(c) (then concealment penalty) | 139(1) (return of income) | 64(1)(i) and (iii) (historical clubbing clauses as cited) | 2(45), 4 and 5 (total income and charge) | 274 (penalty notice, procedural history)

Two-judge bench | P.N. Bhagwati, J. | E.S. Venkataramiah, J.

Assessment years: 1964-65

Historical return form; binding precedent controlled the result

The two-judge Court doubted but followed the binding three-judge Muthiah decision and dismissed the Revenue appeal. Its contrary interpretative discussion is not the operative result. Relief concerns the old return form; the judgment records a separate-column amendment from 1 April 1972. The judicial body's Rs.1,000 penalty is used despite the headnote's Rs.7,000. Radheshyam is a bounded later check only. Comprehensive later treatment, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

The assessee was a partner in Malabar Tile Works and Malabar Plywood Works, with her husband and minor daughter also associated with the firms. Her AY 1964-65 return showed Rs.4,754 property income and Rs.4,748 income from other sources. For her registered-firm profit shares she directed the Officer to the firms' files, but did not show the husband's and daughter's shares, which the judgment treats as includible under section 64(1)(i) and (iii). The Officer included those amounts in an assessment of total income of Rs.59,506 (physical page 3/SCR 783 D-H). That figure is the assessed total, not a separately established amount of omitted income.

After reference and a section 274 notice, a Rs.1,000 penalty was imposed, as stated in the judicial body. The Tribunal cancelled it on the view that the relevant expression in section 271(1)(c) covered only the assessee's own income, not another person's income statutorily included in her total. The Kerala High Court answered the reference for the assessee. The Revenue appealed by special leave from the High Court's 8 December 1971 judgment in T.I.T. Reference No.91/69 (physical pages 3-4).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first distinguished the interpretation it would adopt on principle from the binding precedent governing the result. Reading sections 2(45), 4, 5, 64 and 139 together, it reasoned that a return must disclose every item chargeable as part of the assessee's total income, including the spouse/minor-child shares here. The prescribed form then lacked a separate column for that income, but contained a note requiring income includible under section 64 to be shown under the appropriate head. On that interpretative analysis, failure to disclose it would attract section 271(1)(c) (physical pages 5–7/SCR 785 A–787 D).

The two-judge Bench nevertheless expressly treated *V.D.M.R.M.M. Muthiah Chettiar v. CIT*, 74 ITR 183, a three-judge decision, as binding. As recounted in this judgment, Muthiah held that, absent an appropriate head in the return, even printed instructions did not impose the asserted disclosure obligation for the purpose of section 34(1)(a) of the 1922 Act. The Bench doubted the correctness of that interpretation but did not overrule it (physical page 7/SCR 787 D–H).

The Court stated that it would have referred the matter to a larger bench, except that the return form had been amended from 1 April 1972 to add a separate column for the relevant Chapter V income. Because the controversy had thereby become academic for that form, it declined a reference and followed Muthiah. The actual holding for this historical return was that the assessee could not be treated as having concealed her income by the stated omission (physical page 8/SCR 788 A–B). The Court's contrary interpretative discussion must not be substituted for this operative holding.

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

03 JUDICIAL DECISION

The Revenue's appeal was dismissed. Applying the binding three-judge Muthiah decision, the Court held that this omission did not constitute concealment for the return in question. In the peculiar circumstances, each party was to bear and pay its own costs throughout (physical page 8/SCR 788 A–C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeal dismissed; cancellation of penalty remains; each party to bear and pay its own costs throughout

Final reasoned historical penalty decision governed by binding larger-bench precedent despite the deciding Bench's expressed disagreement

Historical AY 1964-65 return-form case; neither an overruling of Muthiah nor permission to omit income under later forms or statutes.

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

05 AKHB REVIEW POINT

Separate the operative result, the Bench's interpretative disagreement, and the historical form change. The assessee won because the Court followed a larger bench; extracting the earlier discussion alone would reverse the result. Conversely, the decision does not create a permanent exemption from disclosing clubbed income. The Court itself identified the new separate column from 1 April 1972.

A bounded primary later check of Radheshyam Ladia (21 April 1987), physical pages 5–6, confirms this distinction. That Court quoted Kochammu's explanation, declined a larger-bench reference for the same reasons, and followed Muthiah and Malegaon in disposing of its historical reopening dispute. This supports describing Kochammu as doubting but following Muthiah, not as overruling it. The later case does not certify present return requirements.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, actual date, bench and appeal

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 781 heading; 783 B–C

Source role: reported metadata and judicial text

2.

Topic: Return, assessed total, penalty and reference

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 783 D–784 H

Source role: judicial text

3.

Topic: Interpretative discussion and historical form note

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: SCR 785 A–787 D

Source role: judicial text

4.

Topic: Binding larger bench, form amendment and exact disposition

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 787 D–788 C

Source role: judicial text

5.

Topic: Bounded later following of Muthiah and discussion of Kochammu**Source url:** [Open cited source](#)**Pdf pages:** 5; 6**Paragraphs:** SCR 1106 F–1107 F**Source role:** bounded later judicial treatment

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

P.N. Bhagwati, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (historical provisions adjudicated in this judgment)

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Income-tax Rules, 1962: rule 12 and historical prescribed return form; amendment effective 1 April 1972 as described by the Court; Indian Income-tax Act, 1922: section 34(1)(a), in the binding Muthiah precedent

SOURCE & VERIFICATION

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

Identified source rendition: 8 PDF pages; SHA-256

4a383150696f9b8d1d5514f29e9c736d377ba73b9645c1337890b522bc2186f2. Original bytes preserved.

Unnumbered judicial body begins physical page 3/SCR 783 C and ends page 8/SCR 788 C. Pages 1–2 and top of page 3 are reporter material; appellate metadata appears on page 3. No neighbouring judgment.

[Open cited source rendition](#)

Actual decision date is 23 September 1980, not the 1981 report/asset year.; The judicial body at page 4 states Rs.1,000 as the penalty imposed; the page 1 reporter summary states Rs.7,000. The note follows the judicial body and discloses the conflict.; Page 3 identifies Rs.59,506 as total assessed income after inclusion, not the amount of the husband's and daughter's shares alone.; The report's judicial narrative calls the penalty authority the Assistant Appellate Commissioner; no silent institutional correction is made and no jurisdictional holding is inferred from that label.; Section 64 numbering and the 1 April 1972 form change are retained as described in this historical judgment; no current clubbing rule or form requirement is certified.; Muthiah's ratio is recounted from Kochammu and the bounded later Radheshyam judgment. Muthiah's own full original source has not been independently reviewed here.

The relevant accounting year was the calendar year ended 31 December 1963. The 1981 SCR volume and asset year are not the decision year.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. Identify the applicable statutory version and procedural route separately.

LATER TREATMENT

Source checked 2026-10-04. not_verified. Bounded direct later check: Radheshyam Ladia, all six pages read for context, with the relied-on treatment at physical pages 5–6/SCR 1106 F–1107 F. No comprehensive citator search, current-form validation, amendment-Gazette chain or 2025 mapping.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 8](#)

SHA-256: 4a383150696f9b8d1d5514f29e9c736d377ba73b9645c1337890b522bc2186f2

[later judgment bounded check - PDF pages: 6](#)

SHA-256: 60bba883042977879e89d748840796e219c15a5bdd5a0893a9802ba2cd6f0be3

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