

Kalloomal Tapeswari Prasad (HUF), Kanpur v. Commissioner of Income-tax, Kanpur (and vice versa)

Civil Appeal Nos. 1370 of 1974 and 1768 of 1975

[1982] 3 SCR 9 | 1982-01-12

Whether an oral partial partition of immovable properties was recognisable under section 171 without physical division or allotment of the properties

Income-tax Act, 1961: section 171

Two-judge bench; judgment delivered by E. S. Venkataramiah, J. | R. S. Pathak, J. | E. S. Venkataramiah, J.

Historical ruling; verify current law

This judgment applies historical legislation and facts. Do not treat this note as a current-law or citator-status certificate.

01 FACTS OF THE CASE

The HUF claimed an oral partial partition on 1 December 1963 of eighteen immovable properties worth about Rs.7.26 lakh among ten members. Shares and income were divided, but no properties were allotted by metes and bounds or as whole assets with monetary equalisation. The Income-tax Officer refused a section 171 finding.

Source: [Primary judgment: facts and procedural setting](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 171 creates a tax-specific deeming rule: a family previously assessed as undivided continues in that status until a statutory partition finding. For physically divisible property, severance of status or division of income is insufficient. Physical division may be achieved through fair allotment of entire properties to members with equalisation payments where literal fragmentation is impracticable.

Source: [Primary judgment: reasoning](#)

03 JUDICIAL DECISION

The properties were capable of the division required by the Explanation to section 171. No qualifying physical division occurred, so their income remained assessable in the HUF hands.

Source: [Primary judgment: holdings](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee appeal dismissed; Revenue appeal allowed; one set of costs awarded to Revenue.

Source: [Primary judgment: operative disposition](#)

05 AKHB REVIEW POINT

AKHB analysis: document not only the private-law severance but the asset-level division and the section 171 finding applicable to the relevant assessment year. Income-sharing entries alone do not establish the statutory physical division considered here.

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

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Complete 29-page SCR report read in page-preserving text and every page image inspected, from the reported opening page through the operative disposition.

[Open cited source rendition](#)

Exact catalogue SHA-256 and 29-page count verified; every page was read and visually inspected.

STATUTORY SCOPE

Historical statutory provisions are described as they appeared in the report. Verify the current enactment, amendments and later judicial treatment before reliance.

LATER TREATMENT

Source checked 2026-10-12. No comprehensive later-treatment or present-law clearance is represented. The note reports the historical statutory text and result in this primary report only.

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 complete judgment, governing statutory version 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.