

Commissioner of Income Tax, Calcutta v. Prahaladrai Agarwala

Civil Appeal No. 575(NT) of 1975

[1989] 2 SCR 737 | 1989-04-26

Whether the wife's disputed share of partnership profits, apart from interest whose inclusion was conceded, arose sufficiently directly or indirectly from money gifted by her husband to be included under the historical section 64(1)(iii) for AY 1962-63.

64(1)(iii) (as applicable to AY 1962-63) | 27(i) (statutory cross-reference in quoted clause)

Two-judge bench | R.S. Pathak, C.J. | M.H. Kania, J.

Assessment years: 1962-63

Historical clause; interest concession and two distinct firms

For AY 1962-63 the disputed profit share lacked the required proximate link with the gift under historical section 64(1)(iii); inclusion of capital interest was conceded. Follow the judicial facts, which place husband and wife in distinct firms, rather than the inconsistent headnote. Other statutory routes and later section 64 versions require separate analysis; the 2011 compilation is historical context only. Comprehensive later treatment and current-law/2025 mapping remain unverified.

01 FACTS OF THE CASE

The assessee was assessed as an individual for AY 1962-63. He held an eight-anna share in Ramesh & Co., whose other partners were his father, brother and a stranger. From his account in that firm he gifted Rs.21,000 to his wife Kaushalya Devi on 10 November 1960 and Rs.30,000 on 28 November 1960. Separately, his mother received gifts of Rs.11,000 from him and Rs.20,000 from his father (physical page 3, SCR 739 A–C).

The wife and mother joined a different newly constituted firm, Kunjilal Hariram & Co., with the assessee's grandfather, brother and the stranger. The judicial body lists those five partners; it does not put the assessee in that firm. The deed dated 10 November 1960 provided for business to begin on 12 November. Its preamble described the fifth partner as bringing experience and organisational ability but little finance, and the first four as providing funds. Clause 4 required those first four to contribute Rs.25,000 each within six months and provided 6% interest on their adjusted capital balances, with the same rate on any balance of the fifth partner. The wife contributed the two gifted sums as capital (physical pages 3–4, SCR 739 C–H and 740 A).

The Income-tax Officer included her partnership profits in her husband's total income under section 64(1)(iii). The Appellate Assistant Commissioner and Tribunal upheld inclusion, reasoning that she was admitted because she supplied capital sourced from his gifts. Before the Tribunal, however, the assessee expressly conceded inclusion of interest on her capital; only the balance of the share of profit remained disputed. The High Court held the connection between those profits and the gifts too remote and answered the reference for the assessee (physical page 4, SCR 740 B–H).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court reproduced section 64(1)(iii) as it stood for the relevant year. It concerned income arising directly or indirectly to a spouse from assets transferred by the individual otherwise than for adequate consideration or in connection with an agreement to live apart, subject to section 27(i). The words directly or indirectly still required a proximate connection between the income and the transferred asset (physical page 5, SCR 741 A–D).

The Court applied Commissioner of Income-tax, West Bengal III v. Prem Bhai Parekh. The earlier case's quoted reasoning distinguished income resulting from a transfer from income merely connected with it and construed the statutory clubbing rule strictly. In this case, the Court accepted that the capital contribution was the reason the wife became a partner, but held that contribution alone could not automatically give her partnership status. The remaining partners' agreement admitted her to the firm. The agreement-based entitlement to profits made the relationship with the earlier gifts too remote for the historical provision in issue (physical pages 5–6, especially SCR 742 D–E).

The Court found that J.H. Gotla, Jwalaprasad Agarwala, V.D. Dhanwatey and Mohini Thapar did not assist the Revenue; it did not overrule them or give detailed new holdings on their issues. It expressly distinguished Potti Veerayya Sresty because the wife there invested transferred assets in her own cloth business and did not depend on anyone else's agreement for admission to it. Thus the decision is not a general exclusion of income from every business funded by a spouse's gift (physical page 6, SCR 742 E–H).

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

03 JUDICIAL DECISION

The Court upheld the High Court's negative answer to the question about the disputed share of profit under the historical section 64(1)(iii), in favour of the assessee and against the Revenue. The Revenue's appeal was dismissed with costs. The judgment did not reverse the separate concession concerning interest on the wife's capital (physical page 7, SCR 743 A–B, read with physical page 4, SCR 740 D).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue's appeal dismissed with costs; negative answer to the reference about the disputed partnership profit sustained

Final reasoned determination under the historical section 64(1)(iii); interest inclusion had been conceded below

AY 1962-63, distinct firms and agreement-based admission. No blanket exemption for gifted capital, no relief for the conceded interest, and no determination under a different statutory route or later version of section 64.

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

05 AKHB REVIEW POINT

Trace the actual receipt and its legal source. The gift supplied capital, but capital did not by itself create partnership rights; the partners' agreement was indispensable. Keep the disputed profit share separate from interest on capital, whose inclusion the assessee conceded. Also preserve the Court's contrast with a spouse's own business, in which income did not depend upon admission by other partners.

The headnote's statement that husband and wife were partners in the same firm is inconsistent with the judicial facts. Following it could import an unadjudicated statutory route and materially distort the case. The judicial body describes the husband's Ramesh & Co. and the wife's separate five-person Kunjilal Hariram & Co. The decision answers the historical transfer-of-assets clause; it does not determine every other potentially applicable clubbing provision.

Numbering and statutory version matter. The separately checked Department of Revenue-hosted 2011 compilation records the 1975 substitution effective 1 April 1976, presents the spousal asset-transfer rule in section 64(1)(iv), and contains distinct business-investment and firm-interest rules in Explanation 3 (physical pages 399–402; amendment-history footnotes 18 and 38 are editorial compilation notes). This later historical material is a reason to check the applicable year's entire scheme, not a ruling that the 1962-63 outcome applies unchanged today. No current-law conclusion, 2025 crosswalk or comprehensive later-treatment search is certified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal and precise referred question

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Cover and SCR 738 D–H

Source role: reported metadata and judicial text

2.

Topic: Two distinct firms, gift amounts and partnership deed

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 739 A–H and 740 A–B

Source role: judicial text

3.

Topic: Interest concession and competing views below

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: SCR 740 C–H

Source role: judicial text

4.

Topic: Historical clause and proximate-connection test

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 741 A–H and 742 A–E; quoted Prem Bhai Parekh reasoning distinguished from present application

Source role: judicial text

5.

Topic: Other authorities and sole-business distinction

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 742 E–H

Source role: judicial text

6.

Topic: Negative answer and dismissal with costs

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: SCR 743 A–B

Source role: judicial text

7.

Topic: Later historical numbering and distinct investment/interest rules; no current-law mapping

Source url: [Open cited source](#)

Pdf pages: 399; 400; 401; 402

Paragraphs: Section 64 opening and clauses; Explanation 3; amendment-history footnotes 18 and 38

Source role: historical statutory context

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R.S. Pathak, C.J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 7 PDF pages; SHA-256

22c221d0c522f0863833f237795f09e6c4c353046a7975b312c89a8deb7f027b. Original bytes preserved.

Complete unnumbered judicial text from physical page 2, SCR 738 F, through physical page 7, SCR 743 B. Cover/headnotes and appeal metadata on physical pages 1–2 separately identified; no adjacent judgment.

[Open cited source rendition](#)

The headnote at SCR 737 says the wife was a partner alongside the husband and describes a six-person firm. The judicial facts at SCR 739 name a distinct five-person firm for the wife and do not include the husband. This note follows the judicial body and does not silently import the headnote's assertion.; Inclusion of capital interest was conceded before the Tribunal, SCR 740 D; the Supreme Court's relief concerns the disputed balance of profits.; Section 64(1)(iii) is the historical clause reproduced for AY 1962-63. Do not relabel it as a later minor-child clause or assume unchanged numbering.; The Court accepted that capital contributed was the reason for admission, yet required the partners' agreement. Do not change that into a finding that the capital contribution was irrelevant.; The four Supreme Court authorities invoked by the Revenue were said not to assist; the opinion gives an express factual distinction for Potti Veerayya Sresty. No overruling is stated.; The 2011 government-hosted statutory compilation is bounded later historical context. Amendment footnotes are editorial compilation material; no amending-Act Gazette authentication, current statute review or 2025 mapping has been performed.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment search is certified. Any actually checked later judgment or statute is expressly identified in this note.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 7](#)

SHA-256: 22c221d0c522f0863833f237795f09e6c4c353046a7975b312c89a8deb7f027b

[official hosted statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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