

Commissioner of Income Tax, Gujarat, Ahmedabad v. Smt. Kamalini Khatau

Civil Appeal No. 2145 of 1978 and connected proceedings (full list below)

[1994] 3 SCR 942 | 1994-05-09

Whether Revenue could directly assess a discretionary-trust beneficiary on income distributed to and received by her within the accounting year, rather than being confined to assessing the trustees.

4 | 5 | 160(1)(iv) | 161(1) | 161(2) | 162 (recovery protection context) | 163 and 165 (Chapter XV context) | 164 (historical text for AY 1969-70) | 166

Three-judge bench | M.N. Venkatachaliah, C.J. | S.P. Bharucha, J. | S.C. Agrawal, J.

Assessment years: 1969-70 (illustrative lead appeal)

Actual receipt within the accounting year; historical rate provisions

Revenue's option concerns trust income distributed and received by the beneficiary within the accounting year, with direct assessment grounded in sections 4 and 5. Section 166 is not an independent charging power. This is not a ruling on taxing undistributed discretionary expectations or collecting the same tax twice. The lead facts are AY 1969-70; section 164 was later substituted and amended. Current-law applicability and comprehensive later judicial treatment remain unverified.

01 FACTS OF THE CASE

In the lead appeal, the assessee was beneficiary of nine trusts. Three had her as sole beneficiary and their income was undisputed. The six relevant deeds allowed trustees to accumulate income or distribute it, in their discretion, among named beneficiaries, including to the exclusion of others. During calendar year 1968, relevant to AY 1969-70, trustee resolutions distributed Rs 18,000 from those six trusts' income to her, and she received it in that year (physical pages 4–5).

The ITO included Rs 18,000 in her income, relying on section 166; the appellate Assistant Commissioner affirmed. The Tribunal held section 164 applicable and excluded the receipt from her assessment. The Gujarat High Court's three-judge Bench upheld the Tribunal by a majority. Revenue appealed; the Supreme Court heard the connected appeals together (physical pages 3–5).

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

02 DISCUSSION BY THE HON'BLE COURT

Even a discretionary-trust trustee is a representative assessee under section 160. Section 161 establishes assessment in the trustee's name, while preserving representative capacity and limiting levy and recovery in the prescribed manner. Section 161(2) protects that representative assessment from being made under other provisions. The Court used Nagappa and the Nizam's Family Trust line of reasoning to explain that these protections do not make beneficiary assessment inherently impossible (physical pages 14–20).

Section 164, in the historical text applied, specified how tax was to be levied where beneficial shares were unknown or income was actually received by a beneficiary; it was not a self-contained charging code displacing section 161. The Court did not sustain direct assessment by treating section 166 as a charging provision. Section 166 was merely clarificatory, and its receivable-income wording did not itself supply the discretionary-trust assessment power. Income distributed and received by the beneficiary within the accounting year fell within section 5 and attracted assessment and recovery under section 4 (physical pages 19–22).

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

03 JUDICIAL DECISION

Revenue could assess and recover tax from either the trustees or the beneficiaries in respect of discretionary-trust income distributed to and received by the beneficiaries during the accounting year. The appeals were allowed; the majority judgment under appeal was set aside, and the references were answered on that basis. There was no order as to costs (physical page 22).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

All connected appeals allowed; High Court majority judgment set aside; references answered for Revenue; no costs

Final common ruling on the specified direct-assessment question

The holding is expressly confined to income distributed and received within the accounting year. It is not a ruling taxing an unexercised discretionary expectancy, authorising duplicate collection, or establishing rates for later statutory versions.

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

05 AKHB REVIEW POINT

Start with the trust deed, the resolutions exercising discretion, the period in which trust income arose and proof of actual receipt by the beneficiary. Keep the representative assessee's liability and safeguards separate from the beneficiary's own charging provisions. Merely labelling a trust discretionary is not an exemption for income actually received in the specified year; equally, this decision should not be extended to undistributed income solely because someone is a potential beneficiary.

The rate language reproduced in this judgment belongs to its historical section 164. A bounded independent check of the Department-hosted 2011 compilation's physical page 762, footnotes 93 and 96, records substitution effective 1 April 1971 and a further rate-language change effective 1 April 1980. The association-of-persons/beneficiary-rate discussion cannot be advertised as the later rate rule. No subsequent judicial treatment of this trust proposition has been independently checked in this batch.

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

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 2145 of 1978 / Civil Appeal Nos. 2147, 2148, 2151–2153 and 2155–2156 of 1978 / Civil Appeal Nos. 2099 and 2147–2148 of 1979 / Civil Appeal No. 63 of 1980 / Civil Appeal No. 2074 of 1981 / Civil Appeal Nos. 733 and 734 of 1982 / Civil Appeal No. 905 of 1989 / Civil Appeal No. 3313 of 1990

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, full grouped appeal recital and lead facts

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4; 5

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Historical sections 161, 164 and 166

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Quoted authorities and representative-assessment safeguards

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16; 17; 18; 19; 20

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Sections 4/5 foundation and distribution-within-year limit

Source url: [Open cited source](#)

Pdf pages: 21; 22

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Operative allowance and no costs

Source url: [Open cited source](#)

Pdf pages: 22

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Bounded statutory amendment-history caution

Source url: [Open cited source](#)

Pdf pages: 762

Paragraphs: Footnotes 93 and 96

Source role: bounded statutory history

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.P. Bharucha, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER CHECKS AND THEIR LIMITS

1.

Source: DOR_IT_Act_English_2011_compilation.pdf

Kind: legislative history only

Pin: Physical page 762, footnotes 93 and 96

Finding: Section 164 substitution effective 1 April 1971 and subsequent rate-language change effective 1 April 1980; no current-law equivalence inferred.

OTHER STATUTORY PROVISIONS DISCUSSED

Indian Income-tax Act, 1922, sections 40 and 41 (analogy); Wealth-tax Act, 1957, sections 3 and 21 (quoted analogical authorities)

PREVIOUS YEARS IDENTIFIED

Calendar year 1968 (lead appeal)

SOURCE & VERIFICATION

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

Identified source rendition: 22 PDF pages; SHA-256

6a477025ac6d6e0e14973de16a21ed9aa69c81c7a9a4598a791f77022ba66358. Original bytes preserved.

Complete unnumbered judicial text from physical page 4/SCR 945, Bharucha J. opening, through page 22/SCR 963, operative allowance and no-costs direction. Editorial headnote on pages 1–3 and jurisdiction/counsel material distinguished. No adjacent judgment.

Open cited source rendition

Machine ingestion misspells the name as Kamaltni. The inspected cover and judicial text identify Kamalini Khatau.; The judicial facts concern nine trusts in total, of which six discretionary trusts generated the disputed Rs 18,000. The other three trusts are not in dispute.; The source recital groups seventeen appeals; only the lead appeal's AY 1969-70 facts are used illustratively. Do not assign that year to every connected appellant; Section 164 is quoted expressly as it stood at the relevant time. Later maximum-marginal-rate language must not be silently imported into the holding or the old rate language carried forward.; Source pages 12 and 15 contain apparent section/citation slips, including section 146 in counsel's section 164 submission and inconsistent Jyotendrasinhji reporter page numbers. No corrected cited-case citation or proposition is invented from those slips.; The headnote's paraphrase of the sections preceding section 166 differs from the judicial text. The note uses the Court's own discussion on physical page 21 and does not treat section 166 as an independent assessment power.

Seventeen civil appeals in the source's grouped jurisdiction recital on physical page 3. Facts of CA 2145/1978 used illustratively; other appellants' independent years and trust terms are not supplied by this note.

STATUTORY SCOPE

The official utility structurally maps sections 4 and 5 to 4 and 5; sections 160–164 to 303–307; and sections 165–166 to 304. None certifies continuity of the AY 1969-70 rate language. Structural correspondence is not substantive equivalence, an assessment-year applicability decision or a current-law certification. The 2025 operative provisions have not been compared for these propositions.

Specified structural correspondence and placeholders (no automatic precedent carryover):

section 1961: 4 - Charge of income-tax; section 2025: 4 - Charge of income-tax; section 1961: 5 - Scope of total income; section 2025: 5 - Scope of total income; section 1961: 160 - Representative assessee; section 2025: 303 - Representative assessee; section 1961: 161 - Liability of representative assessee; section 2025: 304 - Liability of representative assessee; section 1961: 162 - Right of representative assessee to recover tax paid; section 2025: 305 - Right of representative assessee to recover tax paid; section 1961: 163 - Who may be regarded as agent; section 2025: 306 - Who may be regarded as agent; section 1961: 164 - Charge of tax where share of beneficiaries unknown; section 2025: 307 - Charge of tax where share of beneficiaries unknown; section 1961: 165 - Case where part of trust income is chargeable; section 2025: 304 - Liability of representative assessee; section 1961: 166 - Direct assessment or recovery not barred; section 2025: 304 - Liability of representative assessee

LATER TREATMENT

Source checked 2026-10-04. Comprehensive later judicial treatment remains unverified. The only later-source check for this note is the separately labelled statutory amendment-history passage; it is not judicial treatment.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 22](#)

SHA-256: 6a477025ac6d6e0e14973de16a21ed9aa69c81c7a9a4598a791f77022ba66358

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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