

Commissioner of Income Tax, Calcutta v. Bijoy Kumar Almal

Civil Appeal No. 2298 (NT) of 1977

[1995] 3 SCR 170 | 1995-04-04

For AY 1962-63, should the historical section 23(2) allowance for a self-occupied house be deducted separately from each qualifying co-owner's share in annual value, or once from the whole property's annual value before apportionment?

22 | 23(2), historical self-occupied-house allowance | 26 | 256(1)

Two-judge bench | B.P. Jeevan Reddy, J. | G.T. Nanavati, J.

Assessment years: 1962-63

Historical co-owner allowance for AY 1962-63

This decision concerns the then section 23(2) allowance for an owner-occupied house and definite, ascertainable co-ownership shares. The one-half/Rs 1,800 formula is historical. The Court reached its conclusion under the earlier section 26 without needing retrospective application of the Explanation effective 1 April 1976. It did not decide borrowing-interest deductions. Later treatment, current-law application and 2025 mapping remain unverified.

01 FACTS OF THE CASE

Bijoy Kumar Almal owned an undivided one-third share in a house property. During the relevant period he occupied the house for his own residence together with his brother and other co-sharers. The appeal concerned AY 1962-63. The ITO deducted the amount specified in the then section 23(2) from the annual letting value of the entire house, then apportioned the remaining annual value among the co-owners. Almal claimed the statutory allowance separately against his own share (physical page 2 / SCR 171).

The Tribunal accepted that position. On the Revenue's section 256(1) reference, the Calcutta High Court answered in the assessee's favour. The Supreme Court appeal was from the High Court's judgment dated 24 November 1975 in I.T.R. No. 274 of 1968. The precise question was whether the statutory allowance should be allowed separately every time house-property income falling to each co-owner's share was computed. The report states neither the property's annual letting value nor an assessed tax amount; none is inferred (physical page 2 / SCR 171).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first identified the historical statutory scheme. Section 22 charged the annual value of property consisting of buildings and appurtenant lands under the house-property head. Under the version of section 23(2) described in the judgment, a house occupied by its owner for his own residence was first valued as if let, then its annual value was reduced by one-half of that amount or Rs 1,800, whichever was less. Those figures belong to the statutory version examined in this case (physical page 3 / SCR 172).

Section 26 applied where two or more persons owned the property and their respective shares were definite and ascertainable. It prevented assessment of those persons as an association of persons in respect of that property and required each person's share of the property income, computed under sections 22–25, to be included in that person's total income. The Court considered that language sufficient by itself to support a separate section 23(2) allowance from the respondent's own share in annual value. The condition of a definite and ascertainable share was integral to the result; undivided ownership did not defeat it (physical pages 3–4 / SCR 172–173).

The Court also set out the Explanation to section 26 inserted with effect from 1 April 1976. It directs computation on the basis that each qualifying co-owner is individually entitled to the section 23(2) relief. The Court observed that the dispute would not arise from AY 1976-77 onward and that the Explanation placed the idea beyond doubt. However, it reached the AY 1962-63 answer from section 26 even without that Explanation; the judgment does not need to be presented as retrospectively applying the later amendment (physical pages 2–4 / SCR 171–173).

The judgment records that Delhi and Bombay High Courts had taken similar views in CIT v. Shyam Sunder and Tulsi Das v. CIT, and that Calcutta had followed its decision under appeal in CIT v. Shanti Devi Jalan. Those references appear in the 1995 Court's own discussion; they are not later-treatment findings made during this review (physical page 4 / SCR 173).

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

03 JUDICIAL DECISION

The Court upheld the separate allowance out of Almal's definite and ascertainable share in the annual value of the self-occupied house. The Revenue's appeal failed and was dismissed. The order expressly states no costs (physical page 4 / SCR 173).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee, Bijoy Kumar Almal

Civil Appeal No. 2298 (NT) of 1977 dismissed; High Court's answer in favour of the assessee sustained; no costs

Final reasoned merits decision on the historical computation/reference question

AY 1962-63; historical section 23(2) relief for an owner-occupied house and co-ownership shares definite and ascertainable under section 26. No contemporary allowance amount, borrowing-interest deduction or blanket rule for every joint property decided.

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

05 AKHB REVIEW POINT

Keep the sequence of computation visible: identify the co-owner's definite and ascertainable share, then apply the historical relief individually to that share. An undivided one-third ownership interest can meet the section 26 condition; physical division of the building is not the fact on which this decision turns. The source also establishes the respondent's own residential occupation, so the note should not omit that qualification.

For historical research, do not use the 1976 Explanation as a substitute for explaining the Court's reading of the earlier section. Equally, do not republish the one-half/Rs 1,800 formula as a present allowance. The judgment addresses annual-value computation under the provisions before the Court; it is not a ruling on how contemporary section 24 borrowing-interest limits should be shared.

Comprehensive subsequent treatment and application of the statutory version governing another year remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date and bench

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Physical PDF page pins; corresponding SCR page numbers stated in the note. The 1995 primary judicial text is unnumbered.

Source role: reported metadata and judicial text

2.

Topic: Appeal number, referred question, AY 1962-63 and facts

Source url: [Open cited source](#)

Pdf pages: 2

Paragraphs: Physical PDF page pins; corresponding SCR page numbers stated in the note. The 1995 primary judicial text is unnumbered.

Source role: judicial text

3.

Topic: Historical sections 22, 23(2), 26 and the 1976 Explanation

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: Physical PDF page pins; corresponding SCR page numbers stated in the note. The 1995 primary judicial text is unnumbered.

Source role: judicial text

4.

Topic: Independent construction of section 26 and separate allowance

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Physical PDF page pins; corresponding SCR page numbers stated in the note. The 1995 primary judicial text is unnumbered.

Source role: judicial text

5.

Topic: Revenue appeal dismissed and no costs

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: Physical PDF page pins; corresponding SCR page numbers stated in the note. The 1995 primary judicial text is unnumbered.

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 4 PDF pages; SHA-256

da20cdc69d8b3d31db552cc18d6e992806f8f40b4fc27d5602db87f4758d184d. Original bytes preserved.

Complete judicial text physical pages 2–4 / SCR 171–173; editorial headnote page 1 and the beginning of page 2 separately identified. All four pages also visually inspected.

[Open cited source rendition](#)

The relevant assessment year is 1962-63; the Explanation to section 26 was inserted with effect from 1 April 1976. The earlier-year result rests on the pre-existing language of section 26.; The one-half/Rs 1,800 formula is the historical section 23(2) formulation recited by the Court, not a current allowance.; The property was occupied by the respondent for his own residence, and his one-third share was definite and ascertainable; the result must retain those conditions.; The source's page 2 is visually noisy but legible. Caption, appeal number 2298 (NT) of 1977, High Court date and assessment year were checked against its image.; The headnote gives a fuller CTR citation for Tulsi Das than the judicial body. This note does not silently harmonise those citation variants or turn earlier High Court references into subsequent treatment.; No quantified tax relief or total property annual value is provided. No borrowing-interest claim was decided.

Sections 22, 23(2) and 26 govern the historical computation question; section 256(1) is the reference route. Sections 22–25 are referred to collectively as the computation scheme. The Explanation to section 26 took effect on 1 April 1976 and is distinguished from the unamended text applied for AY 1962-63; no loan-interest provision is decided.

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. Comprehensive subsequent treatment has not been verified. No subsequent judgment is relied upon in this note.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 4](#)

SHA-256: da20cdc69d8b3d31db552cc18d6e992806f8f40b4fc27d5602db87f4758d184d

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