

Income Tax Officer v. Ch. Atchaiah

Civil Appeal No. 2513 of 1977

[1995] Supp. 6 SCR 543 | 1995-12-11

Whether prior assessments in the individual members' hands barred assessment of an association of persons because the ITO had supposedly elected between the association and its members.

2(31) | 4 | 148 | 183, historical comparison | 155(2), applicability expressly undecided

Two-judge bench | B.P. Jeevan Reddy, J. | B.N. Kirpal, J.

Assessment years: 1964-65, 1965-66, 1968-69

One assessment objection decided; other issues remain open

Prior taxation of the wrong person did not bar taxation of the legally liable person. This judgment did not finally decide every AOP fact, notice objection, assessment year, computation or refund route. Section 155(2) was expressly left undecided; notice-date and compensation discrepancies remain flagged. Comprehensive later treatment is unverified.

01 FACTS OF THE CASE

Atchaiah and Kondal Reddy jointly purchased land in October 1962 for Rs 75,000 after it had already been notified for acquisition. They shared the original and enhanced compensation equally. The ITO assessed the individuals for AY 1965-66 on the original compensation gain and for AY 1968-69 on the enhanced compensation (physical pages 4–5).

A later section 148 notice concerned AY 1964-65; the ITO proposed assessment in the status of an association of persons. The taxpayers filed a nil return and objected. The High Court prohibited further action, reasoning that the ITO had already exercised an option to tax the members individually and could not tax the association on the same income. Other objections to the notice were also raised but were outside the single issue decided here (physical pages 5–6).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished the wording of section 3 of the 1922 Act from sections 4 and 2(31) of the 1961 Act. The older charging scheme expressly allowed the relevant choice between the firm/association and its partners/members. The 1961 definition and charging section omitted that choice: tax must be imposed on the person legally liable for the particular income, rather than whichever assessment would yield more revenue (physical pages 7–10).

An assessment on a wrong person therefore does not confer immunity on the right person. The wrongly taxed person remains entitled to seek relief in accordance with law. The Court expressly declined to decide whether section 155(2) was an available remedial route in this case. Historical section 183 illustrated that Parliament could confer a particular option expressly; the judgment itself recorded that provision's omission from 1 April 1993 (physical pages 7 and 10–11).

The legislative draft had included optional wording, but Parliament omitted it. The Court accordingly rejected the contrary High Court approach founded on older-Act authorities, without treating those authorities as if their distinct statutory wording had not existed (physical pages 11–13).

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

03 JUDICIAL DECISION

The Revenue's appeal was allowed and the High Court judgment was set aside, without costs. The Court expressly confined its ruling to the supposed election bar and left the assessee free to urge other contentions before the ITO according to law (physical page 13).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the election/jurisdiction objection

Appeal allowed; High Court prohibition set aside; no costs

Final statutory interpretation of the claimed option; other assessment and notice objections left open

The Court did not finally determine every ingredient of AOP liability, the correct assessment year or computation, other reopening objections, or an automatic refund mechanism for the individual assessments.

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

05 AKHB REVIEW POINT

Start by identifying the person to whom the income legally belongs. Under the charging scheme applied here, a mistaken individual assessment did not create an election that prevented assessment of the proper taxable entity. Equally, the ruling is not authority to retain duplicate tax indefinitely: the Court recognised lawful relief for the wrongly assessed person while leaving the particular section 155(2) route undecided.

Separate the legal principle from the unfinished assessment. This judgment removed one bar; it did not eliminate statutory notice requirements, decide all AOP facts, settle the competing assessment years or quantify final liability. AY 1964-65 belongs to the proposed reopening; AYs 1965-66 and 1968-69 describe the prior individual assessments. The express historical section 183 comparison is not a current election power. No automatic 2025 Act mapping or comprehensive later-treatment certification is made.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, compensation facts, years and conflicting notice dates

Source url: [Open cited source](#)

Pdf pages: 1; 4; 5; 6

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Right-person rule, lawful relief and section 155(2) reservation

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Statutory comparison and historical section 183

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Draft legislation and contrary authorities

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Narrow operative result and preserved objections

Source url: [Open cited source](#)

Pdf pages: 13

Paragraphs: Unnumbered judicial text

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: 13 PDF pages; SHA-256

79101ba42666c71a24eb5741fe1a80e977a3a55b862c0ba4381528d86d2ee4e1. Original bytes preserved.

Complete unnumbered judicial text physical pages 4–13/SCR 546–555; preceding editorial/cause-title material separated. No adjoining judgment.

[Open cited source rendition](#)

The judicial narrative gives three dates for the impugned notice: 17 March 1972 in the opening, 18 February 1972 when narrating issue, and 19 February 1972 when describing the writ challenge. No unique corrected notice date is invented.; The source reports a compensation enhancement of Rs 3,95,026, with the appellant asserting Rs 4,17,477. No reconciled gain or tax is computed.; The A/B hypothetical on physical page 10 contains transposed or incomplete party references; the note follows the unambiguous right-person reasoning on page 7 rather than reproducing that defective example.; The report at places calls counsel for the assessee the appellant's counsel, although the Income Tax Officer is the appellant. Party role is established from the cause title and operative order.; Section 155(2) applicability is expressly reserved, not an adjudicated refund direction.

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: 13](#)

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