

Commissioner of Income Tax, Gujarat v. Shri Udayan Chinubhai and Others

Civil Appeal Nos. 1595–1634 of 1977 (40 appeals)

[1996] Supp. 4 SCR 789 | 1996-08-20

Interest on unsecured family debts allotted on partition was an application of the assessee's income, not diversion by overriding title. Neither the award and decree nor the real-income argument supplied a deduction absent the required statutory basis. Revenue succeeded on all three referred questions.

2-judge bench | B.P. Jeevan Reddy, J. | S.C. Sen, J.

Unsecured debts and application of income

The disputed unsecured interest failed on these facts; secured-interest allowances remained, and the report contains a precedent-attribution inconsistency at SCR 805.

Operative context: Indian Income-tax Act, 1922; historical sections 12(2), 9(1)(iv) (secured-interest allowance in background).

01 FACTS OF THE CASE

An arbitration award and decree divided the Chinubhai family's properties and liabilities. Lady Tanumati and her three sons were assessed individually after earlier litigation established that they held their allotted shares as tenants in common rather than a continuing HUF. They claimed that interest on the allocated debts reduced their taxable income because the obligations bound them under the award and family law.

The tax authorities had allowed interest on debts secured against immovable property. The dispute concerned other interest, including payments to unsecured creditors. Evidence did not establish that those loans had financed the income-producing assets, deposits or dividend investments. The Tribunal rejected deduction, overriding title and real-income arguments; the Gujarat High Court accepted the assessee's case.

Source: [SCR 793 B–H](#); [SCR 794](#); [SCR 795](#)

02 DISCUSSION BY THE HON'BLE COURT

The award made the allocated debts binding, including debts the family members could otherwise have challenged, but did not give the unsecured creditors a charge or beneficial interest in the allotted property. The assessee remained free to use the income as they wished. A creditor's right to be paid did not make income from the debtor's property the creditor's income.

Section 94 of the Trusts Act, considered in its historical form, did not create a constructive trust merely because assets and liabilities were divided together. Nor was this a distribution of legacies by an executor to which section 325 of the Succession Act applied. Partition gave the members specific property in place of existing undivided rights, rather than a conditional bequest from another owner.

The Court insisted on computation under the statutory heads and deduction rules. The obligation to pay interest could not substitute for proof connecting expenditure to the earning of income under section 12(2). The family's partition did not turn previously non-deductible interest into deductible expenditure, and the real-income concept could not bypass those rules.

Applying the distinction explained in *Sitaldas Tirathdas*, the Court separated income diverted before it becomes the assessee's from income applied afterwards to meet a personal obligation. It distinguished the antecedent maintenance entitlement in *Bejoy Singh Dudhuria*. The reasoning is about the nature and source of the obligation; it is not a rule that every judicial charge is ineffective.

Source: [SCR 798 A-H](#); [SCR 799](#); [SCR 800 D-H](#); [SCR 801](#); [SCR 804 D-H](#)

03 JUDICIAL DECISION

The Supreme Court allowed Revenue's appeals and answered all three questions affirmatively: the Tribunal was right to refuse the disputed interest by overriding title or otherwise, under section 12(2), and by invoking real income. No order as to costs was made.

Source: [SCR 806 G-H](#)

04 OUTCOME / IN WHOSE FAVOUR

All 40 captioned civil appeals succeeded; all three referred questions answered affirmatively for Revenue. Result: Revenue. Costs: No order as to costs. Scope: Disputed unsecured-interest claims rejected; the secured-interest deductions described in the assessment history were not reversed. Limit: An obligation to pay an allocated debt does not itself divert the underlying income; genuine antecedent titles and independently available statutory deductions require separate analysis.

Source: [SCR 806 G-H](#)

05 AKHB REVIEW POINT

Analyse exclusion from income and deduction from income separately. For overriding title, identify the creditor's legal interest in the source or income before accrual, rather than relying on the duty to pay. For an interest deduction, document the use of the borrowed money and the applicable statutory head. A family award, consent decree or earmarking arrangement should be read for the rights it actually creates; its label and enforceability alone do not answer either tax question.

Source: [SCR 804 E-H](#); [SCR 806 A-G](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

18-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

SCR 805 introduces Moti Lal Chhadami Lal Jain but then calls the ensuing HUF lease/trust facts Sitaldas's case. The note does not adopt that attribution. Section 94 is historical and expressly described as repealed in the judgment.

STATUTORY SCOPE

Indian Income-tax Act, 1922; historical sections 12(2), 9(1)(iv) (secured-interest allowance in background).

Separately identified 1961 Act provisions and their limited roles: Section 48: Specific later application of the computation principle in Mateen Pyarali Dholkia; not adjudicated in this case and not a section-for-section mapping..

Other statutes discussed: Indian Trusts Act, 1882, section 94 (historical provision; repeal expressly noticed); Indian Succession Act, 1925, section 325.

Current statutory equivalence and Income-tax Act, 2025 applicability have not been verified. No automatic carry-over of this precedent is claimed.

LATER TREATMENT

Source checked 2026-10-06. Mateen Pyarali Dholkia v. DCIT, ITA No. 6950/Mum/2016 (Mumbai ITAT, 30 May 2018), paragraph 7.2, reproduced and followed earlier tribunal reasoning invoking Udayan's rule that real income cannot create a deduction unavailable under the Act, in a portfolio-management-fee/capital-gains dispute. Paragraphs 8-9 sustained the disallowance. This specific tribunal use is verified, not comprehensive later history.

IDENTIFIED SOURCE LINKS

Mateen Pyarali Dholkia v. DCIT (2018-05-30), nonofficial judicial-text reproduction

Paragraph 7.2 (quoted earlier reasoning, paragraph 18) and paragraphs 8-9. HTML judicial-text mirror; no raw PDF or physical-image reading claimed.

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