

The Commissioner of Income-Tax, Bombay, etc. v. M/s Podar Cement Pvt. Ltd., etc. (with connected appeals)

Tax Reference Case Nos. 9–10 of 1986 (opening; operative ending prints 9–10/88) / Civil Appeal No. 4165 of 1994 / Civil Appeal No. 4549 of 1995

[1997] Supp. 1 SCR 394 | 1997-05-27

For section 22, must the person entitled to the rent in their own right hold formally registered legal title, or can the relevant purchaser/owner be assessed under house property despite the absence of a completed registered conveyance? How does the declaratory character of the section 27 amendment affect the historical years before the stated 1 April 1988 commencement?

22 | 27(iii), (iiia), (iiib) | 56 | 24 (historical repairs deduction in C.A. 4549/1995) | 154 (Podar rectification history only) | 256(1), 256(2) and 257 (reference procedure) | 269UA(f) (cross-reference within section 27(iiib))

Three-judge bench | K.S. Paripoornan, J. | K. Venkataswami, J. | B.N. Kirpal, J.

Assessment years: 1975-76, 1976-77, 1983-84, 1970-71

Section 22 tax ownership only; mixed dispositions and material source defects

This judgment identifies the section 22 owner by own-right entitlement to property income on the relevant arrangements; it does not dispense with conveyancing law generally or confer all tax allowances on every possessor. Podar's references were answered for Revenue, Revenue's C.A. 4165/1994 was dismissed and the assessee's C.A. 4549/1995 was allowed, without costs. Podar's annual-value computation was expressly excluded. The PDF conflicts on T.R.C. 1986/88 and Finance Act/Bill 1987/88, visibly prints has not valid title and contains an anomalous promoters/contractors sentence. Read the full reasoning and specific operative results; do not reproduce those defects as independent rules. The three-page 2011 statutory check is bounded. Comprehensive later treatment and 2025 mapping remain unverified.

01 FACTS OF THE CASE

Tax Reference Case Nos. 9–10 of 1986: Podar Cement had four Silver Arch flats on Nepeansea Road, Bombay: Nos. 231, 232, 241 and 242. Two were bought directly from Malabar Industries Pvt. Ltd.; two were acquired through its sister concern. Full consideration was paid and possession taken around August 1973. The flats were let, and rental income was returned for AYs 1975-76 and 1976-77. Podar sought section 56 treatment because title had not been conveyed to the purchasers' co-operative society and ownership had not been transferred into its name. The AO and Commissioner (Appeals) initially applied section 22; the Tribunal accepted Podar's section 56 argument. Owing to conflicting High Court decisions, the Tribunal referred the question directly to the Supreme Court under section 257 when moved under section 256(1) (physical pages 3–6/SCR 396–399).

Podar also disputed annual-value computation: it showed Rs 49,800 as chargeable rent, while the AO used Rs 1,31,268 based on rent receivable for flats in an adjoining building. After the first appellate order of 9 April 1981, section 154 applications led to rectification on 17 March 1982. The Tribunal considered two assessee appeals about the income head and two Revenue appeals against rectification in a common order printed as 8 May 1986, but did not determine the actual-rent/chargeable-value question. The Supreme Court expressly excluded that latter question from its consideration (physical pages 4–5/SCR 397–398).

Civil Appeal No. 4165 of 1994: an individual returned rent from Kailash Building flats 406 and 407, Curzon Road, New Delhi, together with parking space, for AY 1983-84 as house-property income. The AO treated the interest as tenancy rights and applied section 56. The Commissioner (Appeals) and Tribunal applied section 22, the Tribunal finding the individual to be owner of both the flats and parking space. The Tribunal and High Court rejected Revenue's reference applications; Revenue appealed by special leave. This narrative does not separately supply that purchaser's payment, possession or conveyance dates, and none are inferred from the other cases (physical page 6/SCR 399).

Civil Appeal No. 4549 of 1995: the individual assessee, identified later in the judgment through Sushil Ansal v. CIT, held three Akash Deep flats at Barakhamba Road for AY 1970-71. The government land was under perpetual lease; Ansal and Sehgal Pvt. Ltd. built under an agreement with the lessee, whose identity the source says was unknown. Full purchase price and possession were undisputed; the assessee claimed disposal rights, let the flats and paid municipal taxes. Returned net rent was Rs 18,403 after municipal taxes and the then section 24 one-sixth repairs allowance. The AO denied the repairs allowance by applying section 56; the first appellate authority directed section 22 treatment and repairs relief. The Tribunal, finding only an agreement to sell, full payment and possession without a sale deed, restored the AO; the High Court sustained section 56 treatment. The assessee appealed (physical pages 6–8 and 28/SCR 399–401 and 421).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read section 22 in the context of taxing house-property income and its annual value, rather than adjudicating every civil incident of title. Applying R.B. Jodha Mal Kuthiala, it identified the relevant owner as the person who receives, or is entitled to receive, the income in their own right, rather than on behalf of another. It held that insistence on a registered sale deed for this section was unwarranted. The relevant purchaser's payment, possession, control and own-right entitlement explain why a retained formal title did not compel section 56 treatment on these records; receipt of rent alone is not stated as a test for every tenant, agent or unlawful possessor (physical pages 11–15, 25 and 32/SCR 404–408, 418 and 425).

The judgment examined and approved the practical approach of High Courts including Allahabad, Punjab and Haryana, Patna and Rajasthan. It reproduced substantial passages from Sahay Properties and Maharani Yogeshwari Kumari addressing full consideration, possession, control, exclusion of the transferor and historical part-performance protection. Those quoted cases' contract clauses, options to demand conveyance and trust/partnership illustrations are not additional findings about Podar or either connected appellant. The Court also relied on an updating construction responsive to changed social conditions and, alternatively, the interpretation favourable to the assessee if the provision admitted two readings. It rejected the contrary registration-based approach, including the Delhi decision under appeal (physical pages 15–28/SCR 408–421).

Section 27 supplied further support. The Court first identified the Finance Act, 1987 substitution of clauses (iii), (iiia) and (iiib), stated to operate from 1 April 1988. It examined the quoted Finance Bill 1987 memorandum, which described ownership arrangements, possible assessment of legal and beneficial owners for the same income, enlargement of deemed ownership and stated AY 1988-89 commencement. The substituted language covered the specified society/company/association allottee; possession in part performance of a contract of the nature referred to in section 53A; and qualifying section 269UA(f) rights, excluding month-to-month leases and leases not exceeding one year. These are distinct statutory categories, not an unrestricted deeming of everyone who occupies a property (physical pages 12 and 27–29/SCR 405 and 420–422).

Having reviewed principles distinguishing truly explanatory legislation from a new rule, the Court held that the amendment removed an obvious omission or doubt about owner in section 22. It treated those section 27 clauses as declaratory/clarificatory and retrospective, notwithstanding the stated 1988 commencement. This reinforced its section 22 interpretation for the earlier assessment years; it declared the contrary Delhi, Bombay and Andhra Pradesh views not good law on this issue. The reasoning does not make every beneficial or labelled clarificatory tax amendment retrospective; its discussion expressly looks to substance and the pre-existing ambiguity (physical pages 30–32/SCR 423–425).

Bounded statutory cross-check, separate from the 1997 holding: the Department-hosted 2011 compilation retains the section 22 wording, limits section 27's definitions to sections 22–26 and records in footnote 62 the Finance Act, 1987 substitution effective 1 April 1988. Only physical pages 195 and 201–202 were relied on. This corroborates the enactment-year reading of the body of the judgment; it does not establish every later amendment or the current formalities for a particular property transaction.

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

03 JUDICIAL DECISION

The Court answered the question in the two Podar tax references in the negative and in favour of Revenue: the Tribunal was not justified in applying section 56 rather than section 22. Revenue's Civil Appeal No. 4165/1994 was dismissed, leaving the favourable section 22 result for that individual intact. The assessee's Civil Appeal No. 4549/1995 was allowed, rejecting the section 56 outcome challenged in that appeal. There was no order as to costs. The final paragraph prints the references as T.R.C. 9-10/88, in conflict with the opening's 9-10/1986. It supplies no separate recomputation, quantified tax or deduction figure (physical page 32/SCR 425F-G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed: Revenue in Podar's two tax references; the respective assessees in both connected civil appeals

T.R.C. Nos. 9-10/1986 (ending prints 9-10/88) answered negatively for Revenue; Revenue C.A. 4165/1994 dismissed; assessee C.A. 4549/1995 allowed; no order as to costs

Final common judgment on the section 22 owner/head-of-income issue and the identified declaratory section 27 amendment; Podar's annual-value computation expressly outside the decision

Own-right entitlement under section 22 is distinct from an adjudication of all civil-title rights or entitlement under every other tax provision. No universal tenant/possessor ownership rule and no quantified tax or repairs recomputation.

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

05 AKHB REVIEW POINT

Start with the precise statutory question and the person's rights to the income. For the historical section 22 problem, the practical purchase arrangement mattered: examine consideration, possession, control, the vendor's retained rights and whether rent belongs to the recipient in their own right. Do not reduce the case to an assertion that registration never matters, or that collecting rent alone makes anyone the owner. In C.A. 4165/1994 the recorded Tribunal ownership finding matters; the facts of full payment and possession in the other proceedings cannot simply be imported into it.

Keep the three results separate. Podar itself lost its section 56 contention; the other two assesseees succeeded in maintaining or obtaining section 22 treatment. The source's general editorial line about allowing an appeal is not an adequate statement of this common disposition. In the Akash Deep appeal the classification dispute arose because the historical repairs allowance had been denied, so that allowance is part of the case's practical setting. The judgment does not independently certify every deduction condition, fix a resulting amount, or decide ownership for section 32 depreciation or other tax allowances.

The section 22 ratio is not a general conveyancing judgment. Property-law title, enforceability, registration, part-performance requirements and later statutory changes need separate, transaction-date-specific checking. The historical quotations about unregistered contracts must not be presented as current conveyancing advice. Likewise, Podar's actual rent versus annual-value dispute was expressly left outside the Court's consideration; the Rs 49,800 and Rs 1,31,268 figures are rival computation positions, not sums fixed by the Supreme Court.

For retrospective application, distinguish the statute's stated commencement from the Court's specific finding that these clauses explained the pre-existing concept. The 2011 compilation check confirms only the quoted wording and 1987 enactment/1988 stated-effect annotation. Comprehensive later treatment and any mapping to the Income-tax Act, 2025 remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, decision date, judges and opening reference identity; SCR 394–397

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Podar purchase/possession, AYs 1975-76/1976-77, annual-value dispute, reference question and express exclusion of computation; SCR 397–399

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: C.A. 4165/1994: AY 1983-84, Tribunal ownership finding and refused references; SCR 399

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: C.A. 4549/1995: AY 1970-71, full payment, possession, no sale deed and historical repairs issue; SCR 399–401

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Statutory context: section 22, section 27 categories and section 56; SCR 404–406

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Jodha Mal interpretation and own-right entitlement; SCR 407–408

Source url: [Open cited source](#)

Pdf pages: 14; 15

Paragraphs: Unnumbered judicial text

Source role: judicial text

7.

Topic: Embedded Sahay Properties and Maharani Yogeshwari quotations, distinct from current-party facts; SCR 408–418

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25

Paragraphs: Unnumbered judicial text

Source role: judicial text with embedded prior case quotations

8.

Topic: Registration not necessary in section 22 context; updating construction and preferred interpretation; SCR 418–420

Source url: [Open cited source](#)

Pdf pages: 25; 26; 27

Paragraphs: Unnumbered judicial text

Source role: judicial text

9.

Topic: Amendment, Sushil Ansal identification and quoted Finance Bill 1987 memorandum; SCR 420–422

Source url: [Open cited source](#)

Pdf pages: 27; 28; 29

Paragraphs: Unnumbered judicial text

Source role: judicial text

10.

Topic: Declaratory versus new-rule reasoning, retrospective holding and precise owner conclusion; SCR 423–425

Source url: [Open cited source](#)

Pdf pages: 30; 31; 32

Paragraphs: Unnumbered judicial text

Source role: judicial text

11.

Topic: All connected dispositions and no costs; printed reference-year conflict; SCR 425F–G

Source url: [Open cited source](#)

Pdf pages: 32

Paragraphs: Unnumbered judicial text

Source role: judicial text

12.

Topic: Visible subject/title and enactment-year defects, compared with clear narrative and conclusion; SCR 395, 420–421, 425

Source url: [Open cited source](#)

Pdf pages: 2; 27; 28; 32

Paragraphs: Unnumbered judicial text

Source role: reported editorial and judicial comparison

13.

Topic: Bounded historical statutory corroboration: section 22; section 27 scope/categories and footnote 62 Finance Act, 1987 effective 1 April 1988

Source url: [Open cited source](#)

Pdf pages: 195; 201; 202

Paragraphs: Section 22; section 27 opening and clauses (iii), (iiia), (iiib); footnote 62. Printed pages 1.154, 1.160–1.161.

Source role: bounded historical statutory check only

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K. Venkataswami, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 32 PDF pages; SHA-256

73188581312606b7715ad1c09b2f022fa378b09efd09614da81b81fc3375a6c4. Original bytes preserved.

Complete unnumbered judicial text physical pages 4–32/SCR 397–425. Physical pages 1–3/SCR 394–396 contain identity, editorial headnote, cited-case list and jurisdictional metadata; all read, with page 1 read from its image because corpus extraction is blank. Long embedded quotations, submissions and their separate facts are distinguished from this Court's own reasoning.

Open cited source rendition

The primary PDF contains 32 physical pages/SCR 394–425, but page 1 has no corpus-extracted text. Its title, 27 May 1997 date, three judges and editorial introduction were read from the rendered original image.; The opening jurisdiction line and judicial facts identify T.R.C. Nos. 9–10 of 1986 (physical pages 3–4); the operative paragraph and reporter's closing line print 9–10/88 (page 32). Corpus metadata also labels the asset CIVIL APPEAL No. 9/1986. The note follows the printed opening classification while expressly retaining the conflicting ending and metadata.; Physical page 27 identifies the Finance Act, 1987 and effect from 1 April 1988; pages 28–29 quote the Finance Bill 1987 memorandum. Page 32 and the page 2 headnote instead call the amendment Finance Bill, 1988. The separately checked 2011 compilation, physical page 202 footnote 62, supports the 1987 enactment/1988 effect distinction. The original wording remains unchanged.; The final common-law contrast visibly prints has not valid title on physical page 32/SCR 425D; the page 2 headnote prints has got valid title. This is a visible source defect, not silently corrected quoted text. The judicial conclusion about own-right income entitlement is separately clear.; Physical page 28/SCR 421A–B grammatically says promoters/contractors, after giving possession for full consideration, can be owners; the page 2 headnote repeats this anomalous subject. Do not extract that sentence as a holding that the former promoter, rather than the income-entitled purchaser, must be taxed. Read it with the contrary-view contrast, the purchaser facts and the final section 22 holding.; The headnote's singular Allowing the appeal wording must not replace the three distinct operative results. The source's discussion of Sahay Properties Civil Appeals 5874–76/1983 as withdrawn on 20 March 1996 describes prior litigation, not additional appeals disposed of in this common judgment.; Physical pages 15–25 contain lengthy quotations from earlier High Court decisions; their contract clauses and illustrations are not present-party facts. The reference to a then-pending Delhi Full Bench issue on pages 10–11 is historical and its later status is not verified.; The editorial case list gives Maharani Yogeshwari Kumari as 213 ITR 574 (page 3), while the judicial counsel list gives 213 ITR 541 (page 9). No independent reporter reconciliation is certified.; The section 27/statutory cross-check is limited to the identified pages of a Department-hosted 2011 compilation; it is neither a full-book review nor verification of current conveyancing requirements or comprehensive subsequent judicial/statutory treatment.

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 judicial treatment has not been verified. The separately identified 2011 Department-hosted statutory compilation check covers only section 22 and section 27 on physical pages 195 and 201–202, especially the Finance Act, 1987 substitution footnote. It is not a later-case search, present-law certificate or Income-tax Act, 2025 mapping.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 32](#)

SHA-256: 73188581312606b7715ad1c09b2f022fa378b09efd09614da81b81fc3375a6c4

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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