

Commissioner of Income-Tax, Tamil Nadu v. S. Balasubramanian

Civil Appeal No. 4048 of 1984 / Civil Appeal No. 4049 of 1984 / Civil Appeal No. 4050 of 1984 / Civil Appeal No. 4051 of 1984 / Civil Appeal No. 4052 of 1984 / Civil Appeal No. 4053 of 1984

[1998] 2 SCR 415 | 1998-03-24

Whether section 155(5) allowed withdrawal of development rebate after HUF machinery was allotted to coparceners on partial partition and then sold to a third party within the eight-year period.

2(47) | 33(1)(a) | 34(3)(a) | 34(3)(b) | 155(5) | 256(1)

Two-judge bench | Sujata V. Manohar, J. | D.P. Wadhwa, J.

Assessment years: 1960-61, 1961-62, 1962-63, 1963-64, 1964-65, 1965-66

Partition was not the transfer; the later sale defeated rebate conditions

The Court upheld the non-transfer character of partition but allowed all six Revenue appeals because the machinery was then sold outside the HUF/coparcener group within eight years. This is a historical development-rebate ruling, not a universal rule for partitions or other deductions. The printed 1961 withdrawal-letter date conflicts with the 1967 chronology and remains unresolved. The separate 2011 section 171(9) check is bounded; comprehensive later treatment and present-law mapping remain unverified.

01 FACTS OF THE CASE

The assessee was a Hindu undivided family carrying on business; Srinivasa Iyer was its karta and the respondent was his son and a coparcener. Development rebate had been allowed on new plant and machinery for AYs 1960-61 to 1965-66. On partial partition on 1 August 1967 the machinery was allotted to the two coparceners at written-down value. They sold it to a third party on 1 October 1967, within eight years of installation as the Court recorded (physical pages 2-3/SCR 416-417).

The Income-tax Officer withdrew the rebate. The Tribunal and High Court accepted the contention that the HUF itself had neither sold nor transferred the machinery; the High Court also did not find the reserve-fund condition breached. Revenue brought six appeals. The source prints the proposed-withdrawal letter's date as 6 February 1961, which conflicts with the stated later events; no corrected date is inferred (physical pages 2-3).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first upheld the distinction between partition and transfer. Applying Malabar Fisheries' reasoning, partition defined the coparceners' pre-existing community of interests and adjusted their rights; it did not transfer a separate HUF interest to them or extinguish such a distinct interest. That resolved the partition question but did not resolve the later sale (physical pages 6–8/SCR 420–422).

The further third-party sale within eight years distinguished this record. The Court discussed South India Steel Rolling Mills and Narang Dairy Products and read sections 33, 34 and 155(5) together. It expressly noted that the eight-year own-business-use requirement was not stated in section 155(5)(i) or section 34(3)(b) alone, but those provisions could not be isolated from section 33. Even if the assessee was treated as the HUF together with its coparceners, the outside sale meant the machinery had not been used for that business throughout the required period. Section 155(5) was therefore properly invoked (physical pages 8–10/SCR 422–424).

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

03 JUDICIAL DECISION

All six Revenue appeals, Civil Appeal Nos. 4048–4053 of 1984, were allowed. The referred question was answered in the negative and in Revenue's favour, restoring the conclusion that the development rebate could be withdrawn under section 155(5). The source gives no quantified withdrawal or express costs direction (physical pages 2 and 10).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on withdrawal; assessee's non-transfer characterisation of partition accepted as a separate proposition

All six Revenue appeals allowed; reference answered against assessee

Final on permissibility of development-rebate withdrawal on the stated facts

The subsequent third-party sale within eight years is essential; the Court did not hold that partial partition itself is a transfer.

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

05 AKHB REVIEW POINT

Track partition and later disposal as distinct events. A non-transfer conclusion for the first event does not decide compliance with the historical rebate's continuing business-use conditions. Read the grant, reserve and clawback provisions together, while keeping the reserve-use alternative separate from the third-party sale actually at issue.

The 1967 partition also cannot be used without a statutory-date check for later partial partitions. A bounded historical check of the Department-hosted 2011 compilation shows section 171(9), with its 1980 insertion footnote, addressing partial partitions after 31 December 1978 and continued HUF assessment. That is a separate later statutory qualification, not an issue decided in this appeal or a certification of present law (compilation physical pages 770–771).

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, all six appeals, years and reference

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Partition, sale and inconsistent withdrawal-letter date

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Historical sections 33, 34 and 155(5)

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Partition is not itself a transfer

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Later sale, combined statutory reading and disposal of all appeals**Source url:** [Open cited source](#)**Pdf pages:** 8; 9; 10**Paragraphs:** Unnumbered judicial text**Source role:** judicial text

6.

Topic: Bounded historical partial-partition qualification in section 171(9)**Source url:** [Open cited source](#)**Pdf pages:** 770; 771**Paragraphs:** Bounded historical statutory text and identified footnotes; not judicial paragraphs**Source role:** historical statutory compilation

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sujata V. Manohar, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256

6d8b770e37613091beea0f311d738ce10dee4c10f85ecb152bdf7b07f90bc8df. Original bytes preserved.

Complete unnumbered judicial text from physical page 2/SCR 416, paragraph introducing the reference question, through physical page 10/SCR 424, allowing all six appeals. Preceding headnote and embedded prior-case passages are distinguished.

[Open cited source rendition](#)

The judicial narrative prints the proposed-withdrawal letter date as 6 February 1961 although the partition and sale are dated August and October 1967. The source image confirms the discrepancy; the correct letter date is unknown.; The source's abbreviated appeal range 4048–53 means all six appeals 4048 through 4053 of 1984; the machine-ingested single lead number does not capture the full disposal.; The Court expressly says partition itself does not effect the transfer contemplated here. Its result depends on the later outside sale and a combined reading of the historical development-rebate provisions.; Although some rebate years precede commencement of the 1961 Act, section 155(5) and the corresponding cross-Act allowance language are substantive parts of the decision. This is not an incidental 1961-Act reference.; The bounded section 171(9) comparison is from a 2011 compilation and is neither part of the 1998 holding nor a comprehensive subsequent-law check.

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 and statutory treatment has not been verified. Only the expressly identified bounded comparisons have been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 10](#)

SHA-256: 6d8b770e37613091beea0f311d738ce10dee4c10f85ecb152bdf7b07f90bc8df

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.