

Union of India and Others v. M.V. Valliappan and Others

Civil Appeal Nos. 1612-1623 of 1998 / Civil Appeal No. 12590 of 1995 / Civil Appeal Nos. 5743-5748 of 1995

[1999] 3 SCR 1146 | 1999-07-27

Whether section 171(9), which denies income-tax recognition to partial partitions after 31 December 1978 in HUFs hitherto assessed as undivided, was within Parliament's competence and consistent with Article 14 and the charging provisions; and what followed for prior recognition findings and the grouped income-tax, wealth-tax and reference proceedings.

2(31) | 4 | 5 | 171(1)-(3) | 171(9)(a)-(d) | 171 Explanation (a)-(b) | 148, reopening in the example | 256(2), Gujarat reference directions

Five-judge Constitution Bench | S.P. Bharucha, J. | B.N. Kirpal, J. | S. Rajendra Babu, J. | S.S.M. Quadri, J. | M.B. Shah, J.

Assessment years: 1980-81

Tax nonrecognition of covered partial partitions; separate appeal-group outcomes

For an HUF hitherto assessed as undivided, section 171(9) was upheld for partial partitions after 31 December 1978, applying to AY 1980-81 onward. Prior tax recognition and bona fides did not avoid the bar. This is not civil cancellation of every partition or authority for unlimited reopening. The Karnataka wealth-tax relief and Gujarat reference directions must remain distinct. The reported docket year is 1998, with the disclosed parallel-metadata discrepancy. No individual tax/penalty amount, current personal-law conclusion or 2025 equivalence is certified; comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

The appeals grouped Madras and Karnataka constitutional challenges with Gujarat income-tax reference applications. The Madras High Court had struck down section 171(9) on legislative-competence and Article 14 grounds, while also objecting that it brought income no longer belonging to the HUF into the charge under sections 4 and 5. Karnataka followed that approach and also invalidated the substantially similar section 20A of the Wealth-tax Act. Gujarat refused to call for a reference on whether firm income of two smaller HUFs could be included in the bigger HUF's income (physical pages 6-9).

The Supreme Court took Madras W.P. No. 994 of 1984 as the factual example. The karta described an HUF consisting of himself, his wife, a minor son and a minor daughter, with funds invested in a partnership. Certain assets were partially partitioned by a deed on 13 April 1979, and the Income-tax Officer recognised the partition on 28 December 1979. The HUF's return, filed on 12 April 1980 for AY 1980-81, omitted income from those assets; the respective individuals reported it. The income-tax assessment and corresponding wealth-tax return were initially accepted (physical pages 6-7).

A section 148 notice dated 4 March 1983 proposed reopening AY 1980-81. The assessee argued that the unrevoked section 171 recognition order remained effective. The Officer rejected that objection on 30 November 1983 and reassessed the HUF including the income from the partially allotted assets. The writ petition challenged that reassessment. The judgment does not state a rupee amount of income, tax, wealth or penalty, and does not reproduce distinct facts for every companion matter (physical page 7).

Section 171(9) had been inserted in 1980 with a post-31 December 1978 partition-date cutoff. Its language addressed recognition findings made before as well as after 18 June 1980, the Bill's introduction date. The constitutional batch therefore required the Court to decide the effect of an express statutory change on earlier recognised partial partitions, rather than merely decide whether this particular deed was genuine (physical pages 9-11).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court began with section 171's tax-specific framework. An HUF hitherto assessed as undivided generally continues in that status until the statutory partition finding; subsection (9) overrides the preceding provisions for a partial partition after the cutoff. No inquiry or recognition finding is to be made for that category, and any such finding, whether made before or after the Bill's introduction, is null and void. The family remains assessable as if no partial partition had occurred. Consequently, the fact that the 13 April 1979 partition had already been recognised did not preserve its income-tax benefit (physical pages 9-11).

The quoted provision also imposes joint and several liability on the family and persons or groups who were its members immediately before the partial partition for tax, penalty, interest, fine and other sums payable by the family, and relates a member's several liability to the property allotted. This is the statutory liability structure considered, not a finding that a particular penalty or recovery amount was due from any individual in these appeals (physical page 10).

Parliament's competence derived from Entry 82 of List I, covering taxes on income other than agricultural income and measures preventing tax evasion. The Court explained that tax recognition of partial partitions had been introduced by the 1961 Act and could be withdrawn by amendment. The stated purpose was to curb multiplication of HUF units through partial partitions of persons, property or both to reduce tax. The historical comparison with section 25A of the 1922 Act supported that fiscal-status reasoning; it was not a holding that private-law partition never existed (physical pages 11-12 and 14-15).

Article 14 did not require withdrawal of benefits already conferred on partitions before the cutoff. The Court found an intelligible distinction rationally related to preventing further multiplication of tax units. The amendment operated for AY 1980-81 and thereafter, although the partition-date cutoff was 31 December 1978 and the Bill was introduced in June 1980. It rejected the contention that the date was arbitrary: selection of a line need not have a mathematically inevitable explanation, and no ground showing the chosen date capricious or whimsical in these circumstances had been made out. This is not a general immunity for any legislative cutoff (physical page 13).

Sections 4 and 5 had to be read with section 2(31), which includes an HUF as a taxable person, and with the tax law's partition conditions. Personal-law partition and tax recognition were distinct. Even before subsection (9), section 171's Explanation imposed conditions beyond a mere severance of status; *Kalloomal* and *Sarada Thampatty* illustrated that the tax conditions could not be ignored, including where a civil decree existed. The Court accordingly rejected the supposed contradiction with the charging provisions (physical pages 14-15).

The Court also rejected a proposed exception for genuine or bona fide partial partitions. Whether to limit the measure to abusive arrangements or apply it to the whole defined class was for the legislature. Higher aggregate tax, the HUF's lack of control over allotted assets

02 DISCUSSION BY THE HON'BLE COURT

and internal recovery difficulties did not defeat the provision. For this tax purpose the assets were treated as retained by the HUF; the Court observed that a total partition remained an alternative, without deciding that every proposed total partition would automatically qualify. Its hardship reasoning concerned the competence and tax-liability arguments before it, while the Article 14 challenge had separately been examined and rejected (physical pages 15–16).

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

03 JUDICIAL DECISION

The appeals were allowed. The judgments and orders declaring section 171(9) of the Income-tax Act and section 20A of the Wealth-tax Act unconstitutional were quashed. The Madras and Karnataka writ petitions challenging section 171(9) and seeking consequential relief were dismissed. The Gujarat orders rejecting section 256(2) applications were separately set aside, and the Income Tax Appellate Tribunal, Ahmedabad was directed to refer the questions to the High Court for determination. There was no order as to costs (physical pages 16–17).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Union of India/Revenue on validity; Revenue obtained reference directions in the Gujarat matters

Appeals allowed; constitutional invalidation orders quashed; Madras and Karnataka writ challenges dismissed; Gujarat section 256(2) rejection orders set aside with Tribunal reference directions; no costs

Final Constitution Bench ruling sustaining the statutory partial-partition nonrecognition framework; Gujarat referred questions still directed to the High Court for determination

Tax recognition for the specified historical HUF class and cutoff, not civil nullification of every partition. Prior recognition findings are expressly displaced, but no general unlimited-reopening power or individual quantified tax/penalty is adjudicated. The Gujarat directions are not final answers to the references. Current personal-law changes, comprehensive subsequent treatment and 2025 mapping are not verified.

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

05 AKHB REVIEW POINT

Keep four dates and conditions separate: the date of the partial partition, whether the HUF was hitherto assessed as undivided, the date of a recognition finding, and the assessment year. The after-31 December 1978 cutoff cannot be replaced by the 18 June 1980 Bill date or the 1 April 1980 commencement. For the covered class, prior recognition and bona fides did not remove the statutory bar. An arrangement's validity under personal law does not by itself establish recognition for income-tax purposes.

Do not translate the nullity of a section 171 finding into civil cancellation of the partition deed, or the mention of penalty liability into an adjudicated penalty against these respondents. Nor does the decision say that every completed assessment may be reopened without the otherwise applicable statutory machinery. Preserve the separate Gujarat reference direction and the related wealth-tax relief instead of reporting a uniform final assessment award across the whole batch.

The bounded 2011 official compilation confirms the historical subsection (9) language and commencement. The later Azadi Bachao Andolan passage checked at physical pages 72–73 cites the Madras High Court's 1988 tax-planning discussion. That context-specific approval is not a reversal of this five-judge ruling on section 171(9), and it supplies no bona fide-partition exception to the express statutory bar. The source's defective isolated wording is not used to expand that comparison. Comprehensive later treatment, present personal and tax law, and 1961-to-2025 equivalence remain unverified.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Proceeding group: Madras constitutional challenges

Supreme court case numbers: Civil Appeal Nos. 1612–1623 of 1998

Lower court proceedings: W.P. Nos. 992–993 of 1981; W.P. Nos. 162 and 6036 of 1983; W.P. Nos. 904–905, 994–995, 5430, 6162 and 9283 of 1984

Lower court judgment date: 1988-01-13

Number allocation limit: These are group-level reported identities, not an individual appeal-to-writ allocation. Appellate metadata additionally lists W.P. 906 of 1984, omitted in the judicial opening.

Appellant role: Union of India/Revenue

Outcome: Appeals allowed; judgments and orders declaring section 171(9) unconstitutional quashed and set aside; writ petitions challenging its validity and seeking consequential relief dismissed.

Costs: No order as to costs

Pinpoint: Physical pages 6–8/SCR 1151–1153; operative pages 16–17/SCR 1161 H-1162 C

2.

Proceeding group: Karnataka constitutional challenges, including wealth-tax relief

Supreme court case numbers: Civil Appeal No. 12590 of 1995; Civil Appeal Nos. 5743-5748 of 1995

Lower court proceedings: W.P. Nos. 12312-12317 of 1987; judgment 9 November 1993; W.P. No. 23708 of 1992; judgment 25 November 1992

Number allocation limit: The judgment identifies these Karnataka appeals as a group; it does not allocate each Supreme Court docket to an individual writ or statutory relief.

Appellant role: Union of India/Revenue

Outcome: Appeals allowed; judgments and orders declaring section 171(9) of the Income-tax Act and section 20A of the Wealth-tax Act unconstitutional quashed and set aside. The constitutional writ petitions and consequential section 171(9) relief were dismissed as stated in the operative paragraph.

Costs: No order as to costs

Pinpoint: Physical pages 6 and 8/SCR 1151 E and 1153 F-G; operative pages 16-17/SCR 1161 H-1162 C 3.

Proceeding group: Gujarat income-tax reference applications

Supreme court case numbers:

Case number note: The connected Supreme Court appeal numbers are not printed in this rendition.

Lower court proceedings: Income Tax Application Nos. 164-165 of 1993; judgment 29 June 1993

Appellant role: Revenue

Outcome: Orders rejecting section 256(2) applications set aside; Income Tax Appellate Tribunal, Ahmedabad directed to refer the questions to the Gujarat High Court for determination.

Questions finally answered by this judgment: False

Reference limit: The question whether firm income of the two smaller HUFs could be included in the bigger HUF's income was directed to be referred, not finally answered in these proceedings.

Costs: No order as to costs

Pinpoint: Physical pages 6 and 8-9/SCR 1151 E and 1153 H-1154 B; operative page 17/SCR 1162 A-C

Costs: No order as to costs

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Bench, author, appellate groups and lower-court provenance

Source url: [Open cited source](#)

Pdf pages: 1; 6; 8

Paragraphs: SCR 1146 heading; 1151 B-H; 1153 F-H

Source role: judicial text

2.

Topic: Detailed Madras example, High Court reasons and Gujarat question

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: SCR 1151 E-1154 E

Source role: judicial text

3.

Topic: Section 171 mechanism, cutoff, liability and prior recognition

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: SCR 1154 E-1156 C

Source role: judicial text

4.

Topic: Legislative competence, anti-fragmentation purpose and Article 14

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: SCR 1156 D-1158 H

Source role: judicial text

5.

Topic: Charging provisions, personal-law distinction, bona fides and hardship

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16

Paragraphs: SCR 1159 A-1161 G

Source role: judicial text

6.

Topic: Distinct constitutional relief, reference directions and costs

Source url: [Open cited source](#)

Pdf pages: 16; 17

Paragraphs: SCR 1161 H-1162 C

Source role: judicial text

7.

Topic: Historical section 171 text, Explanation and insertion footnote

Source url: [Open cited source](#)

Pdf pages: 769; 770; 771

Paragraphs: printed 1.728-1.730; page 770 footnote 40

Source role: historical statute

8.

Topic: Later citation to Madras tax-planning reasoning, not constitutional reversal

Source url: [Open cited source](#)

Pdf pages: 72; 73

Paragraphs: SCR 293 F-294 A; footnote 85

Source role: bounded later judicial context

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

M.B. Shah, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Finance (No. 2) Act, 1980: section 171(9) insertion, effective 1 April 1980; partial-partition cutoff after 31 December 1978; Wealth-tax Act, 1957, section 20A: related Karnataka constitutional relief; Constitution of India, Article 14 and Seventh Schedule, List I, Entry 82; Indian Income-tax Act, 1922, section 25A: historical comparison, not governing assessment statute

SPECIFIED COMPARISONS AND THEIR VERIFICATION LIMITS

1.

Status: verified bounded

Subject: Historical section 171(9) text, applicability and insertion footnote

Source url: [Open cited source](#)

Pdf pages: 769; 770; 771

2.

Status: verified bounded context distinction

Subject: Later Azadi reference is to the 1988 Madras tax-planning discussion, not a reversal of the 1999 validity judgment

Source url: [Open cited source](#)

Pdf pages: 72; 73

SOURCE & VERIFICATION

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

Identified source rendition: 17 PDF pages; SHA-256 826dc5b80505768bd6b0fc1c3a78f44e9d4d8b8e827dff19f0120f5d9492a4ed. Original bytes preserved. Complete unnumbered judicial body begins at physical page 6/SCR 1151 D-E and ends physical page 17/SCR 1162 C. All physical pages 1-17 read, separating reporter headnotes and appellate metadata. One common judgment by M.B. Shah, J.; no separate opinion or adjacent judgment.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: False; material primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; all authored opinions separately accounted for: True; material later treatment limits prominent: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

The detailed example is Madras W.P. 994/1984, concerning AY 1980-81 and a 13 April 1979 partial partition. The rule is stated to apply to AY 1980-81 onward. AY 1979-80 occurs in the High Court conclusions quoted and rejected; no separate companion years or tax figures are invented.

The rendition's appellate heading at physical page 6 prints 1612-23 of 1998 Etc.; judicial page 8 expressly identifies the Karnataka appeals as 12590/1995 and 5743-5748/1995. Supreme Court numbers for the Gujarat reference matters are not supplied. Some parallel online metadata says 1612/1988; the frozen reported rendition's 1998 form is retained without treating that external discrepancy as a separate judgment.

The title date and five-judge bench are checked on physical page 1; the author is Shah, J. on page 6, read with M.B. Shah's full cover name, not the metadata's starred first judge.; The appellate heading prints Civil Appeal Nos. 1612-23 of 1998 Etc. The frozen index gives only 1612/1998; other online metadata gives 1612/1988. The reported rendition controls this note, and the discrepancy is disclosed rather than converted into another appeal.; The Madras appellate metadata includes W.P. 906/1984, which the opening judicial list omits. Both lists and the discrepancy are retained in the scope audit; no individual disposition is invented for a separately unanalysed petition.; The quotation of the High Court on page 7 prints Income-Tax Act, 1951, and judicial page 11 prints Income Tax Act, 1992 when discussing the pre-1961 law. Context and the section 25A discussion identify those as apparent printed year slips; they are not new governing statutes.; The section 171(9) quotation on page 10 contains "among the other members" and omits "as" before "if" in clause (b). The official historical compilation has "among the members" and "as if"; the source PDF remains unchanged.; The reporter headnote's language about partial partitions being null and void must not obscure that subsection (9)(a) expressly nullifies tax-recognition findings. Personal-law validity and tax recognition remain separate.; No rupee tax, asset-value or penalty award is stated. AY 1979-80 is part of the High Court propositions quoted and rejected, not an additional fully narrated assessment.; Azadi Bachao Andolan's later Madras citation is bounded tax-planning context. The page 72 image appears to omit "not" while extracted text says "cannot"; the comparison does not depend on that isolated sentence.

STATUTORY SCOPE

No automatic mapping from the Income-tax Act, 1961 to the Income-tax Act, 2025, and no present-law certification. Apply the statutory text and procedural conditions for the relevant year.

LATER TREATMENT

Source checked 2026-10-05. not_verified. Bounded subsequent primary context check: Azadi Bachao Andolan, 7 October 2003, physical pages 72-79/SCR 293-300, especially the Madras High Court Valliappan citation at pages 72-73. It approves a tax-planning discussion in the 1988 High Court decision; those passages do not reconsider or displace the 1999 Constitution Bench's section 171(9) validity holding. No comprehensive citator review or claim of express later reaffirmation of this holding is made.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 17](#)

SHA-256: 826dc5b80505768bd6b0fc1c3a78f44e9d4d8b8e827dff19f0120f5d9492a4ed

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

[later primary context distinction bounded check - PDF pages: 79](#)

SHA-256: 58c84f8a855a51a14615c7d6788194669ddbb0f0732d2afbbf55720689f2f594

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