

Appropriate Authority and Commissioner, Income Tax v. Smt. Varshaben Bharatbhai Shah and Ors.

Civil Appeal No. 5426 of 1997

[2001] 2 SCR 349 | 2001-03-13

When two equal co-owners agree to sell one immovable property for Rs. 47 lakhs, is Chapter XX-C's Rs. 25 lakh Ahmedabad threshold tested against the property's total apparent consideration or each seller's share, and what relief follows from undisclosed valuation material?

269UA(a),(b),(d),(f) | 269UC(1)-(3) | 269UD(1),(1A),(1B),(2) | Chapter XX-C

3 judges | S.P. Bharucha, J. | N. Santosh Hegde, J. | Y.K. Sabharwal, J.

Assessment years: See the source-scope notes; no year inferred.

Historical Chapter XX-C ruling; purchase merits remanded

This 1995 agreement case applies the then Ahmedabad Rs. 25 lakh threshold to the whole Rs. 47 lakh property transaction. The purchase was not finally affirmed: full valuation disclosure and a fresh hearing were ordered. Later section 269UP, checked in the 2011 compilation, excludes transfers effected on or after 1 July 2002. Comprehensive later treatment, current-law applicability and 2025 mapping remain not_verified.

01 FACTS OF THE CASE

On 12 August 1995, the second and third respondents agreed to sell an immovable property in Ahmedabad to the first respondent for Rs. 47 lakhs. The Revenue's appropriate authority considered the apparent consideration at least 15 per cent below market value, issued a show-cause notice on 6 November 1995, and, after receiving the respondents' response, ordered pre-emptive purchase under Chapter XX-C (physical 3/SCR 351 F-H).

The first respondent challenged that order in the Gujarat High Court. The sellers maintained that each was transferring an equal half-share held as tenant-in-common; their tax returns reflected separate ownership and the agreement recorded earnest money paid by two separate cheques. Following K.V. Kishore, the High Court treated each seller's consideration as below the applicable Rs. 25 lakh limit, even though the combined amount exceeded it. The Revenue also conceded that it had not supplied all valuation reports. The High Court found denial of natural justice and characterised as perverse the appropriate authority's finding relating to the first respondent's contention that no unaccounted money featured in the sale. It quashed the purchase order on these grounds (physical 4/SCR 352 A-G).

The Revenue appealed by special leave from the judgment dated 5 and 6 February 1996 in SCA 10405/95. This is a transaction-specific historical purchase case, with no assessment year stated. The Rs. 10 lakh threshold and different property amounts discussed in other High Court cases are quoted precedent facts, not facts of this Ahmedabad transaction.

Source: [reported judgment / paragraphs SCR 351 F-352 G: transaction, notice, High Court grounds / PDF pages 3, 4 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

Bharucha J., for the three-judge Court, examined the definitions of agreement for transfer, property, transfer and apparent consideration in section 269UA, the agreement/statement restrictions in section 269UC, and the hearing and reasons provisions in section 269UD. For Ahmedabad, rule 48-K fixed Rs. 25 lakhs where the agreement was entered after 31 July 1995. The Court then reproduced C.B. Gautam's explanation that significant undervaluation may support a rebuttable tax-evasion presumption and that compulsory-purchase reasons must serve the Chapter's anti-evasion object (physical 6-8/SCR 354 D-356 G).

The Court's own test was to identify realistically the property being transferred and the apparent consideration for that transfer. Once that consideration exceeded the area's prescribed threshold, undervaluation of 15 per cent or more could support a notice, after which the parties could establish that the stated consideration was the real consideration. This reasoning preserves the rebuttable nature of the inquiry; it does not convert a valuation gap into an automatic conclusive purchase entitlement (physical 8 H-9 B/SCR 356-357).

Here the agreement and Form 37-I identified the immovable property as the subject of sale and stated total consideration of Rs. 47 lakhs. The transfer of the sellers' equal shares was a necessary incident of that sale. Their tenancy-in-common status and tax-return descriptions did not turn this into separate sub-threshold transfers. The Court added that drafting the agreement as a transfer of the two equal shares would not alter the realistic subject of this transaction (physical 9 B-F/SCR 357).

The Court rejected the contrary approach in K.V. Kishore, N.C. Ranges, J.S.A. Raghava Reddy, Surinder Gupta and Webster Industries, and approved Bombay High Court's view in Jodhram Daulatram Arora. The body calls the contrary judgments erroneous; the editorial headnote labels them overruled. Those authorities were considered through this judgment, not independently reread here (physical 4-6 and 9 G).

The threshold ruling did not cure nondisclosure of valuation reports. Because Revenue had conceded that relevant material had not been disclosed, the Court required a fresh hearing. It expressly found it unnecessary to decide the High Court's perversity finding (physical 9 H-10 A/SCR 357-358).

Source: [reported judgment / paragraphs SCR 354 D-357 H: historical scheme, threshold, cited approaches and natural justice / PDF pages 6, 7, 8, 9 / judicial text](#)

03 JUDICIAL DECISION

The appeal was allowed and the High Court judgment and order set aside. The matter was remanded to the appropriate authority. Revenue had to disclose all material, including reports, relied on for valuation; the authority then had to hear the parties afresh and make an appropriate order without taking any observation in the impugned High Court judgment into account. No limitation objection could be raised in the remand proceedings. There was no order as to costs. The Court did not finally affirm the purchase, determine the correct market value or decide the perversity issue (physical 10/SCR 358 A-C).

Source: [reported judgment / paragraphs SCR 358 A-C: complete operative directions and costs / PDF pages 10 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on Chapter XX-C applicability; respondents retained a fresh hearing with disclosure

Appeal allowed; High Court judgment set aside; remand to appropriate authority for fresh hearing and order

Substantive whole-property threshold ruling, with valuation/purchase merits left to remand

Rs. 25 lakh threshold relates to the stated Ahmedabad agreement/date; total-property consideration controls this sale. Purchase not finally upheld. High Court perversity finding not decided. The remand limitation direction is case-specific. Later 269UP cutoff prevents presenting Chapter XX-C as a present transaction mechanism.

Source: [reported judgment / paragraphs SCR 357 H-358 C: remand and expressly undecided perversity / PDF pages 9, 10 / judicial text](#)

05 AKHB REVIEW POINT

Identify the real property and transaction before dividing the price among transferors. The holding addresses one property sold through one transaction and rejects artificial splitting by co-owner shares. It does not decide every distinct sale of every independently transferable property. Keep the threshold, the rebuttable undervaluation inquiry and the disclosure/hearing requirement separate.

The later historical statutory limit is decisive for use today. The retained Department of Revenue-hosted 2011 compilation, physical 951/printed 1.910, records section 269UP: Chapter XX-C does not apply to or in relation to a transfer effected on or after 1 July 2002. Footnote 76 attributes insertion to the Finance Act, 2002 with that effective date. The statutory trigger is when the transfer is effected, not merely when an agreement is signed; this check is not a blanket repeal claim or a complete analysis of saved historical proceedings. No later direct judicial treatment was independently established for this note. Comprehensive later treatment, current-law applicability and Income-tax Act, 2025 mapping remain not_verified.

Source: [reported judgment / paragraphs Whole-property test, rebuttable inquiry and fresh hearing / PDF pages 8, 9, 10 / judicial text; historical statutory compilation / paragraphs 2011 compilation identity; section 269UP and footnote 76 / PDF pages 42, 951 / historical statutory compilation](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 5426 of 1997

Outcome: Allowed and remanded on stated disclosure/hearing terms; no limitation objection on remand; no costs

Costs: No order as to costs

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Actual Chapter XX-C applicability and hearing dispute. The judgment's historical section 269UC quote uses a prescribed value exceeding five lakh rupees and at least[four]months; relevant Ahmedabad rule 48-K threshold was Rs. 25 lakhs for agreements after 31 July 1995. Neither the bare statutory floor nor thresholds in quoted other cases replace that applicable local threshold.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.P. Bharucha, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Income-tax Rules, 1962, rule 48-K; Transfer of Property Act, 1882, mentioned in quoted section 269 UC; Section 269UP, later historical cessation check only

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 10 PDF pages; SHA-256 525b7011c9283a6ecb5e9f82740f241eae0023e8177ad45064a7ed33561f7b1c. Original bytes preserved. All ten physical pages and images read. Reporter title/headnote physical 1-3/SCR 349-351, appellate recital physical 3 C-D. One Bharucha J. judgment begins physical 3 E-F/SCR 351 and ends physical 10 C/SCR 358. No adjacent case; quoted High Court/C.B. Gautam passages distinguished from this Court's reasoning. Unnumbered judicial paragraphs; page/band pins used.

Open cited source rendition

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

Printed SCR heading, date, bench and complete proceedings checked against primary images. Frozen catalogue INSC identifier not independently authenticated. Judicial paragraphs unnumbered.

Primary judicial paragraphs unnumbered; page/band references used. OCR confuses Form 37-I with 37-1 and statutory letters with numerals; images checked.; Rs. 47 lakhs is this transaction's price; Rs. 25 lakhs is the applicable Ahmedabad threshold. Quoted precedent amounts, dates and thresholds are not assigned to these parties.; Headnote allowance alone conceals the operative fresh-hearing remand. No purchase affirmation, final valuation or perversity holding is inferred.; DOR source is a historical department-hosted Taxmann compilation. Its amendment footnote is not an original Finance Act Gazette; no complete statutory history or current crosswalk is certified.

No assessment year is specified or needed for this pre-emptive property-purchase dispute. Agreement 12 August 1995 and show-cause notice 6 November 1995 are transaction/proceeding dates.

Single appeal from Gujarat High Court's judgment dated 5 and 6 February 1996 in SCA 10405/95. Dates are as printed at physical 3/SCR 351.

STATUTORY SCOPE

No Income-tax Act, 2025 crosswalk, commencement/savings verification or automatic carryover. Complete amendment history and present applicability remain unverified.

LATER TREATMENT

Source checked 2026-10-05. Only the expressly recorded bounded comparisons or statutory checks are verified. Comprehensive later treatment, current-law applicability and 2025 mapping remain not_verified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 10

SHA-256: 525b7011c9283a6ecb5e9f82740f241eae0023e8177ad45064a7ed33561f7b1c

historical statutory compilation - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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