

Commissioner of Income Tax, Jaipur v. Sirehmal Nawalakha

Civil Appeal No. 6725 of 1994

[2001] Supp. 1 SCR 615 | 2001-08-16

Gift tax: an unregistered declaration did not effect a valid immovable-property gift.

Gift Tax Act, 1958: sections 2(xii), 4(1)(c) and 4(1)(d) | Transfer of Property Act, 1882: sections 122 and 123 | Registration Act, 1908: section 17

2-judge bench | B. N. Kirpal, J. | Shivaraj V. Patil, J.

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

Ancillary direct-tax coverage

The Court applied the Gift Tax Act, 1958 and general property/registration law. Current taxation of gifts, exemptions and the Income-tax Act, 2025 are not determined.

Gift-tax scope; do not generalise across all transfers

The decision concerns a 10 October 1966 unregistered declaration gifting specified immovable property. It does not decide every personal-law exception, every kind of family arrangement or present income-tax treatment of gifts.

01 FACTS OF THE CASE

By an unregistered declaration dated 10 October 1966, the owner sought to give his wife out-houses attached to the building Deep Shikha. The Gift Tax Officer, appellate authority and Tribunal held that a valid gift had not occurred because section 123 requirements were unmet. The Rajasthan High Court accepted the wider deemed-gift definition under the Gift Tax Act as dispensing with registration; Revenue appealed.

Source: [SCR pp. 616-617](#) / [PDF pp. 2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court held that the wider tax definition did not remove the requirement for a legally effective transfer. For the immovable-property surrender or vesting advanced under section 4(1)(c) or (d), registration requirements still applied. Relying on R. Valsala Amma and consistent High Court authority, it explained that the Gift Tax Act had not displaced general property law. The High Court had overlooked the Registration Act.

Source: [SCR pp. 617-619 / PDF pp. 3-5](#)

03 JUDICIAL DECISION

Revenue's appeal was allowed, the High Court judgment was set aside and the referred question was answered in favour of the appellant. No costs were awarded. The Tribunal's conclusion that no valid gift of the specified out-houses had been made was sustained.

Source: [SCR pp. 617 and 620 / PDF pp. 3 and 6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue on whether this declaration effected a valid gift. This is not a determination of current gift-tax rates or a general conclusion that all transfers without consideration attract tax.

Source: [SCR p. 620 / PDF p. 6](#)

05 AKHB REVIEW POINT

AKHB analysis: verify the legal effectiveness of the transfer before analysing a tax deeming provision. Review the property description, executed instrument and applicable registration and attestation requirements. Do not rely only on a declaration or on the breadth of a tax definition to establish transferred title; separately examine any legally applicable exception and the tax law for the relevant period.

Source: [AKHB analysis based on SCR pp. 617-620 / PDF pp. 3-6](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Complete six-page SCR report; substantive judgment begins at the bottom of PDF p. 2 and ends on p. 6. Assessment year is not stated.

[Open cited source rendition](#)

Full source PDF read. Page references used because the judgment has no numbered paragraphs.

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Scope classification: ancillary direct-tax statute; not an Income-tax Act, 1961 merits ruling. No 1961/2025 statutory mapping inferred.

STATUTORY SCOPE

The Court applied the Gift Tax Act, 1958 and general property/registration law. Current taxation of gifts, exemptions and the Income-tax Act, 2025 are not determined.

LATER TREATMENT

Source checked 2026-10-09. Subsequent treatment has not been comprehensively verified. No current-law or citator clearance is represented.

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