

Commissioner of Wealth Tax, Rajkot v. Estate of Late HMM Vikramsinhji of Gondal

Civil Appeal No. 2312 of 2007 with 16 connected civil appeals

[2014] 9 SCR 1 | 2014-04-16

Foreign discretionary trusts: retained, undistributed income and unexercised appointment powers did not convert the UK trusts into specific trusts for the assessment years in issue.

Income-tax Act, 1961: section 5 discussed through the earlier receipt-based decision | Wealth-tax Act, 1957: assessment of the deceased settlor's estate | UK trust deeds: clauses 3 and 4

2-judge bench | R. M. Lodha, J. | Shiva Kirti Singh, J.

Assessment years: Income tax: 1984-85 to 1991-92, Substantive wealth tax: 1970-71 to 1976-77 and 1978-79, Protective wealth tax: 1970-71 to 1976-77, 1978-79 to 1979-80 and 1981-82 to 1989-90

Undistributed income and specific trust terms

The holding concerns these deeds and years in which income was retained and not received. It must not be extended automatically to actual distributions, vested entitlements or differently worded trusts.

Earlier receipt-based decision distinguished

The quoted 1993 judgment concerned actual receipt findings in earlier years. This judgment does not say that distributed discretionary-trust income is invariably exempt.

01 FACTS OF THE CASE

The ex-ruler of Gondal settled three US trusts in 1963 and two UK trusts in 1964 for himself and family beneficiaries. Revenue brought 17 appeals: eight income-tax appeals for AYs 1984-85 to 1991-92 and nine wealth-tax appeals, one involving protective assessments for 18 years. Revenue accepted the High Court's US-trust result, leaving the UK deeds in dispute. The Tribunal treated the UK trusts as specific because appointment powers under clause 3 had not been exercised and it considered clause 4 operative. The High Court disagreed, identifying that the income in the years under appeal had not been received or admitted as received and was not included as taxable income in the returns.

Source: [Appeal scope and trust facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished the 1993 Jyotendrasinhji decision: that case proceeded on findings of actual receipt in earlier years, so the trust-character argument was academic there. In the present years the accounts recorded that net income was retained, and clause 3 left disbursement to discretion. A discretionary beneficiary has no fixed right to a share of income merely because the beneficiary may benefit; failure to distribute when income arises does not exhaust the power to distribute later. Non-exercise of the settlor's or son's power to appoint discretion exercisers did not itself alter these trusts into specific trusts. Given the retained and undistributed income and the relevant deeds, the High Court's conclusion was legally sound. The same trust characterization applied to the wealth-tax dispute over the deceased settlor's estate.

Source: [Retained income and discretionary character](#)

03 JUDICIAL DECISION

The two UK trusts remained discretionary for the subject assessment years. The Court upheld the High Court's view that the value of their assets could not be assessed on the estate of the deceased settlor. It dismissed all 16 substantive income-tax and wealth-tax appeals and, with those challenges rejected, dismissed Civil Appeal No. 2312 of 2007 concerning the protective wealth-tax assessments as well. All 17 appeals were dismissed without an order as to costs.

Source: [Holding and dismissal, paragraphs 19-23](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee/estate for these assessment years: Revenue's substantive and protective challenges failed, with no remand. The benefit rests on the particular discretionary deeds and findings of retention and non-receipt, and does not decide liability on actual future or differently situated distributions.

Source: [Factual limits and final outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: examine the complete deed, appointment and default clauses, trustee decisions, accounts and actual payment trail for each assessment year. Separate a mere possibility of benefit from an enforceable entitlement and from an actual receipt. Prior returns or a ruling for other years cannot replace evidence of what happened in the year in dispute. Keep income taxation, asset valuation and reporting duties distinct, and independently check later legislation and authority before advising on a present foreign-trust arrangement.

Source: [Assessment-year evidence and trust interpretation](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 13-page SCR report read; editorial headnotes distinguished from the Court's judgment on PDF pages 3-13, paragraphs 1-23.

Open cited source rendition

The original 13-page PDF and SHA-256 match catalogue asset 2014_9_1_13. All pages were read; paragraphs 1-23 supply the analysis and disposition.

The report's connected-case list contains an apparent abbreviated number. The unambiguous lead appeal and the Court's own count of 17 appeals are used without reconstructing that number.

STATUTORY SCOPE

The judgment concerns the specific UK trust deeds and historical income-tax and wealth-tax assessment years identified in the decision. It does not confer general foreign-trust immunity or decide present-day foreign-asset reporting obligations.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive subsequent treatment, current foreign-trust taxation and reporting rules have not been verified. No current citator or statutory clearance is represented.

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.

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