

Commissioner of Income Tax, Rajkot v. Govindbhai Mamaiya

Civil Appeal Nos. 8103-8110 of 2009

No separate citation stated in the source | 2014-09-04

Whether inherited co-owners constituted an AOP and whether section 28 interest on enhanced compensation could be spread over earlier years.

45(5)(b)

Two-judge bench | J. Chelameswar, J. | A.K. Sikri, J.

Assessment years: 1987-88, 1999-2000

Mixed outcome; section 34 wording and later-law limits

Individual status was upheld, but Revenue won receipt-year taxation of the section 28 interest. Paragraph 8's broader wording about section 34 is not treated here as a general tax exemption. The receipt period is historical; the separately identified compensation-interest amendments from AY 2010-11 and later developments require independent analysis.

01 FACTS OF THE CASE

Three brothers inherited land from their father; two other persons relinquished their rights in their favour. Part of the land was compulsorily acquired, and the compensation was enhanced on appeal with interest. The brothers filed individual returns. The Assessing Officer treated them as an association of persons and taxed the interest in the receipt year rather than spreading it (paragraphs 2-4).

The High Court accepted individual status and spread the interest from the dispossession year, stated as AY 1987-88, to actual receipt in AY 1999-2000. Revenue brought eight appeals presenting the same issues for different years; the Supreme Court used CA 8103/2009 as the representative account without mapping every appeal to a year (opening paragraph and paragraph 4).

Source: [official signed judgment / paragraphs Opening paragraph and 2-4 / PDF pages 1, 2, 3 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

On status, Revenue accepted that the point was governed by existing authority. The Court applied Meera & Company's discussion of Indira Balkrishna and G. Murugesan: the relevant association required voluntary combination for a common income-producing purpose. Here title arose by inheritance, and the interest arose from compulsory acquisition, rather than a joint business venture of the brothers. Mere inherited co-ownership and common receipt on these facts did not establish the required voluntary association (paragraphs 5–6).

On interest, the Court followed Ghanshyam (HUF). It distinguished the section 28 addition to the value of compensation from section 34 interest for delay. The quoted reasoning treated section 28 interest as part of enhanced compensation within section 45(5)(b), taxable when received, rather than accrued and spread over prior years. It also explained the adjustment machinery discussed in section 45(5)(c) and 155(16) if compensation is subsequently reduced; those quotations did not turn this appeal into a separate tax-refund adjudication (paragraphs 7–8).

The appeal's operative interest ruling is confined to section 28 receipts. Paragraph 8 contains a broader-sounding sentence about section 34 interest, while the preceding quotation says it is not part of enhanced compensation. This note does not derive a general section 34 tax exemption from that wording: no such claim is decided in the final direction. That source-reading limitation is editorial and is stated expressly.

Source: [official signed judgment / paragraphs 5–8, quoted authorities and final direction / PDF pages 3, 4, 5, 6, 7, 8, 9 / judicial text](#)

03 JUDICIAL DECISION

The appeals were partly allowed. Individual status remained undisturbed. The portion of the High Court judgment permitting the section 28 interest to be spread was set aside, with a direction to tax it in the year of receipt. No new rupee liability or refund was quantified (closing paragraph on physical page 9).

Source: [official signed judgment / paragraphs Closing paragraph printed0. / PDF pages 9 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on individual status; Revenue on receipt-year taxation of section 28 interest

Revenue appeals partly allowed; spreading direction set aside; section 28 interest taxable in receipt year

Both stated legal issues resolved; mixed outcome

No finding that every co-ownership escapes AOP status, no general tax exemption for section 34 interest, and no ruling on the operation of the subsequent compensation-interest amendments for later years. No complete eight-appeal/year allocation or tax quantification is supplied.

Source: [official signed judgment / paragraphs 6 and closing paragraph / PDF pages 5, 9 / judicial text](#)

05 AKHB REVIEW POINT

Identify why and how the owners hold the property, and whether they subsequently joined in a separate income-producing undertaking. Inheritance alone and a common compensation receipt did not establish an AOP here; a different joint commercial activity requires its own evidence.

For compensation, segregate each component of the award and the provision under which it was granted. The section 28/section 34 distinction and the receipt year are central; do not classify an amount from the label interest alone. Preserve the mixed result rather than describing the entire appeal as won by one side.

This case's receipt year is historical. A bounded official check of CBDT Circular 5/2010, paragraphs 46.1–46.4, records the Finance (No. 2) Act, 2009 changes to section 145A and insertion of section 56(2)(viii), applicable from AY 2010-11, concerning compensation-interest receipt timing and the income-from-other-sources head. Those later provisions, their subsequent versions and their judicial interpretation require separate relevant-year analysis. This note does not settle their interaction with every section 28 award or certify current treatment.

Source: [official signed judgment / paragraphs 6–8 and final direction: editorial application / PDF pages 5, 6, 7, 8, 9 / judicial text: official CBDT explanatory circular / paragraphs CBDT Circular 5/2010, paragraphs 46.1–46.4 / PDF pages 49 / official explanatory circular](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Individual status versus AOP

Result: Individual status sustained on inherited title and absence of a voluntary income-producing venture

In whose favour: Assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: 5–6

Source role: judicial text

2.

Issue: Section 28 interest timing

Result: No spreading; receipt-year taxation directed

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: 7–8 and closing operative paragraph on page 9

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

AOP versus individual status; the original does not expressly cite section 2(31); 45(5)(c) and 155(16): discussed through the quoted Ghanshyam reasoning

OTHER GOVERNING STATUTES

Land Acquisition Act, 1894, sections 28 and 34; sections 23(1-A) and 23(2) in the quoted distinction; Indian Income-tax Act, 1922, sections 3 and 9(3) in the quoted earlier status cases

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A.K. Sikri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

79ac19b2ed83438ea784838073838f56b87354069b2302142a7f15dcea6bd72e. Original bytes preserved.

One common judgment on physical pages 1–9: opening unnumbered paragraph, paragraphs 2–8, then closing operative paragraph misnumbered 0 on page 9; quotations from Meera and Ghanshyam distinguished; signatures and date on page 9.

[Open cited source rendition](#)

No neutral or reporter citation is printed in the official original; identified by appeal numbers and date.

These are the stated endpoints of the High Court's spreading period, not a verified mapping of all eight appeals. Receipt is stated to be in AY 1999-2000; the complete appeal-by-year allocation is not provided.

The closing operative paragraph is printed as 0.; physical page 9 is used rather than inventing a corrected paragraph number.; Paragraph 8's statement about section 34 interest is broader than the quoted distinction between compensation and delay interest. The actual operative direction concerns section 28. The note explicitly does not extract a general section 34 exemption.; The Ghanshyam quotation on page 7 refers to section 23(2) of the 1961 Act when discussing solatium; surrounding text identifies the Land Acquisition Act, 1894 provisions. This apparent quoted-text slip is preserved and not promoted into an Income-tax Act solatium provision.; AY 1987-88 to AY 1999-2000 are the stated spreading endpoints. Eight appeals do not establish eight named assessment years; no missing-year mapping is inferred.; The official explanatory circular verifies only the historical amendment described at paragraphs 46.1–46.4, not all later versions or a definitive current judicial interpretation.

STATUTORY SCOPE

Historical facts and receipt period; later compensation-interest amendments and their interpretation not comprehensively reviewed, and no automatic Income-tax Act, 2025 mapping.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent-treatment audit. Meera & Company and Ghanshyam are initially considered through the passages expressly quoted and applied in this judgment; full standalone sources are not claimed in this record unless separately added. The bounded 2009-amendment circular check is distinct from judicial later treatment.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 9](#)

SHA-256: 79ac19b2ed83438ea784838073838f56b87354069b2302142a7f15dcea6bd72e

[official CBDT explanatory circular - PDF pages: 63](#)

SHA-256: ff5bec3a925019cd8bbcc09d7578e6cdcd202b8b3877852b156d6be76bccea9

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