

Raj Dadarkar & Associates v. ACIT-CC-46

Civil Appeal Nos. 6455-6460 of 2017 (SLP(C) Nos. 17277-17282 of 2015)

[2017] 4 SCR 20 | 2017-05-09

Whether the firm's market-stall and shop receipts were business income despite its conceded deemed-owner status, and whether the business character was established on the record.

22 | 27(iib) | 269UA(f) | 14

Two-judge bench | A. K. Sikri, J. | Ashok Bhushan, J.

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

Later residential-letting provision needs separate application

Finance (No.2) Act, 2024 inserted section 28 Explanation 3 with effect from 1 April 2025 for income from an owner letting a residential house or part of it. The historical business-letting cases are not a blanket current rule for that category. Check the property type, applicable year and later legislation; this limited amendment check does not alter the historical disposition or classify every commercial letting.

[paragraphs Section28, Explanation3 and its printed Finance \(No.2\) Act2024 effective-date notation / PDF pages 2](#)

01 FACTS OF THE CASE

The firm obtained rights over a municipal market area through auction, made substantial improvements and constructed shops and stalls, then sub-licensed them. It collected rent or licence-related amounts and service charges for maintenance, utilities and security. It had returned the receipts as business income. Following reopening, the Assessing Officer treated it as deemed owner and assessed house-property income; the Commissioner (Appeals) reversed, but the Tribunal and High Court upheld the officer (paragraphs 2-6).

In the Supreme Court, deemed ownership under section 27(iib) read with section 269UA(f) was not disputed. The firm instead relied on its partnership objects and claimed that operating and sub-letting the market was its business, citing Chennai Properties and Rayala (paragraphs 7-12).

Source: [reported judgment / paragraphs 1-12 / PDF pages 4, 5, 6, 7, 8, 9 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court separated ownership from the head-of-income issue. Rent normally falls under section 22 when its conditions are met, including actual or deemed ownership; nevertheless, letting can be business income where the activity itself constitutes the assessee's business. The result must follow the actual facts rather than the income label alone (paragraphs 13-14).

Under Sultan Brothers, the object clause was not conclusive. The firm produced no sufficient material beyond that clause to establish the asserted business operation or demonstrate perversity in the Tribunal's findings. The Tribunal had found no systematic or organised service activity beyond letting; the maintenance and utility charges, collected at 20% of rent, were inseparable from the basic rental receipts on this record (paragraphs 15-18).

Chennai Properties involved established property-letting business producing the company's entire income, and Rayala applied it on identical material facts. Those findings were absent here. The Court distinguished the two decisions and applied the house-property result to this firm; it did not overrule the business-letting cases or make all sub-letting and service receipts invariably house-property income (paragraphs 19-20).

Source: [reported judgment / paragraphs 13-20 / PDF pages 10, 11, 12, 13, 14 / judicial text](#)

03 JUDICIAL DECISION

All appeals were dismissed with costs. House-property treatment remained in place on the conceded deemed-ownership position and the unchallenged factual findings about the activity (paragraph 21).

Source: [official signed judgment / paragraphs 21 / PDF pages 20 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeals dismissed with costs

Final classification of the receipts on this record

The Court did not hold that deemed ownership alone always defeats business-income treatment. The absence of proof of a distinct business operation and the final Tribunal findings were material.

Source: [reported judgment / paragraphs 18-21 / PDF pages 13, 14 / judicial text](#)

05 AKHB REVIEW POINT

Establish both the legal interest in the property and the actual commercial operation. Keep evidence of services, organisation, personnel, obligations and receipts; a partnership object or separate service-charge invoice does not by itself prove a business distinct from letting. Where the Tribunal has made adverse findings, address their alleged perversity with the record.

Read this as a factual distinction from Chennai Properties and Rayala. It neither abolishes business classification for a genuine letting enterprise nor offers an automatic rule based only on company or partnership form. Check later law for the particular year and facts.

For later residential letting by an owner, separately check section 28 Explanation 3, inserted with effect from 1 April 2025. The bounded official-source check concerns that specified category and does not convert the historical commercial-letting analysis into a current-law certificate.

Source: [reported judgment / paragraphs 15-21 / PDF pages 11, 12, 13, 14 / judicial text](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

23; 28-44DB; 148; 143(2)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. K. Sikri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER STATUTORY CHANGE AND LIMITS OF THE CHECK

Status: specific 2024 amendment verified

Summary: The official section 28 excerpt records Finance (No.2) Act, 2024 Explanation 3, effective 1 April 2025, placing owner income from letting a residential house or part under house-property income rather than business income. This is a narrow later-law check, not a certificate of all present law or a ruling changing the historical case result.

Source url: [Open cited source](#)

Pdf pages: 2

Paragraphs: Section28, Explanation3 and its printed Finance (No.2) Act2024 effective-date notation

VERIFIED RELATIONSHIPS BETWEEN SPECIFIED JUDGMENTS

1.

Earlier case id: sc-2015-04-09-chennai-properties

Later case id: sc-2016-08-11-rayala-corporation

Relationship: followed on admitted sole leasing business facts

Evidence

1.

Source url: [Open cited source](#)

PDF pages: 5; 6

Paragraphs: 9-13

Source role: judicial text

2.

Earlier case ids: sc-2015-04-09-chennai-properties; sc-2016-08-11-rayala-corporation

Later case id: sc-2017-05-09-raj-dadarkar

Relationship: distinguished on facts not overruled

Evidence

1.

Source url: [Open cited source](#)

PDF pages: 13; 14

Paragraphs: 19-20

Source role: judicial text

SOURCE & VERIFICATION

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

Identified source rendition: 21 PDF pages; SHA-256

7e662f83d1e6a8846154d7e7abba396db766959830c93c20423d71326112eb25. Original bytes preserved.

Judgment paragraphs 1-21 on physical pages 1-20; separate ROP on page 21. Identity, reasoning and outcome matched to the fully read reported rendition.

[Open cited source rendition](#)

The narrative gives a financial-year 1999-2000 reopening example and refers to returns over 1999-2004, without expressly enumerating assessment years for the six appeals. No inferred AY list is presented.

The original has a separate ROP on physical page 21; the signed judgment ends on page 20.; The signed date is 9 May 2017; the later August digital-signature stamp is not the decision date.; The quoted East India Housing passage is attributed to Chennai Properties paragraph 8 in this source, while the reviewed Chennai rendition places that discussion in paragraph 7. That numbering variance does not change the expressly stated factual distinction.

STATUTORY SCOPE

Historical income-head classification; no automatic 2025 Act mapping.

LATER TREATMENT

Source checked 2026-10-04. Only the relationship among these three fully read judgments is specifically checked. No comprehensive later-treatment or current-law audit.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 21](#)

SHA-256: 7e662f83d1e6a8846154d7e7abba396db766959830c93c20423d71326112eb25

[reported judgment - PDF pages: 14](#)

SHA-256: bf24cb87a687ae43363c0b9451b260b230ab0215c544975b6485f4e3c6fa6cdc

[reported judgment - PDF pages: 8](#)

SHA-256: a96801e8a9f0f27b9efa10a946a8568d0ecc0cfb1594af19d862ffb4c1dd6961

[official signed judgment - PDF pages: 6](#)

SHA-256: 933e954e29d218fbccf0b15b182d8c0c0d84f8d4519ef1805ffc365f7a0c5039

[official statutory excerpt bounded review - PDF pages: 2](#)

SHA-256: ed49386b6f2f7edfc49bb9c8207f7d1442602944d4193d007eece0e1ac20919

[Related note: Chennai Properties & Investments Ltd., Chennai v. Commissioner of Income Tax, Central III, Tamil Nadu](#)

[Related note: Rayala Corporation Pvt. Ltd. v. Assistant Commissioner of Income Tax](#)

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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