

Kapurchand Shrimal v. Commissioner of Income Tax, Andhra Pradesh, Hyderabad

Civil Appeals Nos. 1286-1291 of 1973 — Six assessee appeals sharing the partition-inquiry issue
[1982] 1 SCR 505 | 1981-08-28

Assessments made without investigating a timely Hindu-undivided-family partition claim under section 25A(1) of the Indian Income-tax Act, 1922 had to be set aside. The Tribunal also had to direct fresh assessments according to law; merely cancelling the assessments did not discharge its appellate duty (SCR 517-518).

Indian Income-tax Act, 1922 | 1922 Act: 25A

2-judge bench | P.N. Bhagwati, J. | E.S. Venkataramiah, J.

01 FACTS OF THE CASE

Decided 28 August 1981, Civil Appeals 1286-1291 of 1973, from Andhra Pradesh High Court's 30 June 1972 judgment in Referred Case 5 of 1971. Venkataramiah J. delivered the sole opinion with Bhagwati J. The years were 1955-56 and 1957-58 through 1961-62. A partition claim was made in October 1960 and repeatedly renewed. The November 1967 appellate order recognizing partition from 10 July 1960 became final without a departmental appeal (SCR 507-512).

Source: [SCR 505-518; physical PDF pages 1-14](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 25A required inquiry and a recorded finding on the claim; the officer had reasonable time to act. The family-continuance fiction did not excuse failure to follow that procedure when the assessments themselves were appealed. Earlier civil-suit and personal-recovery cases addressed different procedural questions. An appellate authority has power and duty to correct errors and order fresh disposal where necessary, unless the statute forbids it. The Court expressly reserved the consequences of a partition claim made too late to permit inquiry before assessment limitation expired (SCR 513-517).

Source: [SCR 505-518; physical PDF pages 1-14](#)

03 JUDICIAL DECISION

Assessments made without investigating a timely Hindu-undivided-family partition claim under section 25A(1) of the Indian Income-tax Act, 1922 had to be set aside. The Tribunal also had to direct fresh assessments according to law; merely cancelling the assessments did not discharge its appellate duty (SCR 517-518).

Source: [SCR 505-518; physical PDF pages 1-14](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee succeeds in setting aside, subject to fresh assessments The High Court's order upholding the assessments with modifications was set aside. The Tribunal was to set aside the assessments and direct fresh lawful assessments. The appeals were disposed of on that basis, with no order as to costs; the report's closing label is "Appeals allowed" (SCR 518). Defective assessments must be set aside and fresh assessments made according to law; the tax liability on fresh assessment remains open. No current-law or comprehensive later-treatment certification.

Source: [SCR 505-518; physical PDF pages 1-14](#)

05 AKHB REVIEW POINT

Section 25A of the 1922 Act is operative. The section 171, 1961 Act decision discussed at SCR 516 was distinguished, and its correctness was left open. No 2025 mapping or later treatment is asserted. Source: supplied SCR report, [1982] 1 SCR 505-518. The headnote's "an appeal was filed" contradicts the body's "no appeal"; the body controls. Its August assessment date also differs. These are source warnings, and the consequences of very late partition claims remain expressly reserved.

Source: [SCR 505-518; physical PDF pages 1-14](#)

ASSESSMENT YEARS AND LIMITS

Years: 1955-56; 1957-58; 1958-59; 1959-60; 1960-61; 1961-62

Qualification: Only the assessment years material to the issue described are listed.

REPORTED CITATION

Supplied SCR report citation; no machine-generated neutral citation substituted.

SOURCE & VERIFICATION

Original reported Supreme Court judgment

Unchanged supplied SCR report; catalog identifies a CC-BY-4.0 public eSCR mirror. Not represented as a separately fetched official signed PDF. Pinpoints identify the supplied reported judgment. The editorial headnote and counsel submissions are distinguished from the Court's reasons; specific source defects and issue limits are stated in the note.

Open cited source rendition

Very late partition claims were expressly reserved. The headnote says an appeal was filed against the partition order; the body at SCR 508 says no appeal was filed. The headnote gives 21 August as an assessment date, while the body gives 31 August.

STATUTORY SCOPE

Indian Income-tax Act, 1922. The historical operative enactment is identified. Source-discussed 1961 provisions are contextual unless expressly stated; no 2025 mapping is asserted.

LATER TREATMENT

Source checked 2026-10-09. Subsequent appeals, review proceedings, stays, reversals and later treatment have not been comprehensively checked. This is not a citator status certificate.

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