

The Commissioner of Income Tax, Bangalore v. Sri J.H. Gotla, Yadagiri

Civil Appeals Nos. 1596-1598 (NT) of 1973 — Connected Revenue certificate appeals concerning AYs 1959-60, 1960-61 and 1961-62; jurisdiction block identifies Mysore High Court I.T.R.C. Nos. 33-35 of 1970. and connected proceedings (full list below)

[1985] Supp 2 SCR 711 | 1985-08-29

Business income of the wife and minor children included under section 16(3) of the 1922 Act was treated, for section 24(2), as income from a business carried on by the assessee. His eligible carried-forward business loss could therefore be set off against that income (SCR 733-734).

Indian Income-tax Act, 1922 | 1922 Act: 16(3) | 1922 Act: 24(2)(ii) | 1922 Act: 66(1) | 1922 Act: 66A(2)

3-judge bench | V.D. Tulzapurkar, J. | Sabyasachi Mukharji, J. | Ranganath Misra, J.

01 FACTS OF THE CASE

The assessee transferred a solvent-extraction plant to his wife and three minor children. A firm in which he was not a partner used the plant; the wife was a partner and the children shared its benefits. He continued his own oil business and abkari activity. A loss of Rs.7,88,734 was carried forward from AY 1958-59. The dispute in AYs 1959-60 to 1961-62 concerned set-off against the family members' share income included in his total income, rather than against his own business profit. The Tribunal denied it; the High Court allowed it (SCR 716-718).

Source: [SCR 711-734; physical PDF pages 1-24](#)

02 DISCUSSION BY THE HON'BLE COURT

Mukharji J., for the three-judge Bench, read the clubbing provision with the carry-forward rules and their purpose. The loss-making business admittedly continued; the remaining obstacle was the requirement that the business producing the included income be carried on by the assessee. A strict reading would tax the family's profits while destroying corresponding loss relief. Where an alternative construction was possible, the Court preferred one consistent with the anti-avoidance purpose rather than an unintended punitive result. It accepted that income includes loss, but kept the present issue distinct from computing losses actually sustained by the wife or children. It did not need to decide the binding or contemporaneous-exposition effect of the cited Board circular (SCR 723-734).

Source: [SCR 711-734; physical PDF pages 1-24](#)

03 JUDICIAL DECISION

For carry-forward and set-off under section 24(2), the included business profits or losses were attributable to a business carried on by the assessee. The referred question was answered affirmatively in his favour (SCR 733-734).

Source: [SCR 711-734; physical PDF pages 1-24](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee on set-off The Revenue's three appeals were dismissed, with each side bearing its own costs. Civil Miscellaneous Petition No. 97 of 1973 for condonation of delay was allowed. There was no remand (SCR 734). Substantive historical income-tax issue decided No current-law or comprehensive later-treatment certification.

Source: [SCR 711-734; physical PDF pages 1-24](#)

05 AKHB REVIEW POINT

Use the purposive construction with the specific clubbing and loss-set-off scheme, including the then-applicable business-continuation condition. The judgment's discussion of sections 64 and 70-72 of the 1961 Act is historical comparison, not verification of present wording. Later treatment and 2025 mapping remain unverified.

Source: [SCR 711-734; physical PDF pages 1-24](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeals Nos. 1596-1598 (NT) of 1973 — Connected Revenue certificate appeals concerning AYs 1959-60, 1960-61 and 1961-62; jurisdiction block identifies Mysore High Court I.T.R.C. Nos. 33-35 of 1970. / Civil Miscellaneous Petition No. 97 of 1973 — Delay-condonation petition expressly allowed in the common disposition.

ASSESSMENT YEARS AND LIMITS

Years: 1958-59; 1959-60; 1960-61; 1961-62

Qualification: Only years material to the issues described are listed; different claims may cover different years as stated in the facts.

REPORTED CITATION

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

STATUTORY CONTEXT

Indian Income-tax Act, 1922, sections 10, 16(1)(c), 24(1): statutory context; Income-tax Act, 1961, sections 64 (including Explanation 2), 70-72, 139 and 271(1)(c): comparisons or cited-case context; Wealth-tax Act, 1957, section 4: comparison; CBR Circular No. 20 of 1944: quoted; its binding effect and contemporaneous-exposition status not decided

SOURCE & VERIFICATIONOriginal 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. Headnote SCR 711-715; jurisdiction begins SCR 715 and sole Mukharji J. judgment begins SCR 716; reasons and common disposition end SCR 734. No adjacent judgment is included.

Open cited source rendition

The title and early running headings print J.H. Gotla; later running headings print J.M. Gotla. The full opening caption is retained.

SCR 716 jurisdiction text identifies the Mysore High Court judgment of 21 March 1973; the opening reasons refer to Karnataka High Court orders of 10 August 1973. Both descriptions are retained without inventing a reconciliation.

SCR 731 and the headnote refer once to carrying forward under section 24(1); the quoted carry-forward provision and operative holding use section 24(2).

STATUTORY SCOPE

Indian Income-tax Act, 1922. The historical operative enactment is identified. Other enactment references are source context only unless expressly identified as operative; 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.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. Verify the original judgment, applicable statutory version and later treatment before reliance. The AKHB Review Point is editorial analysis.