Madras High Court
Commissioner Of Income-Tax vs Estate Of Late C. Raju Chettiar on 7 August, 1969
Equivalent citations: 1970 76 ITR 211 Mad
Author: Veeraswami
Bench: Veeraswami, Gokulakrishnan
JUDGMENT Veeraswami, C.J.

1. This reference comes before us under Section 66(1) of the Income-tax Act, 1922. The question is:

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee was entitled to be assessed in the status of a Hindu undivided family for the assessment years 1959-60 and 1960-61 ?"

2. The assessee had been assessed in the status of an individual up to the assessment year 1937-38. It the next year, for the first time, it was made in the status of a Hindu undivided family and he continued to be assessed so until and inclusive of the assessment year 1958-59. But for the assessment year 1959-60, though he filed his return in the same status, the Income-tax Officer, after investigation, found that the assessee was a Vysia and his so-called wife was a Sudhra and that beyond the fact that there was only the tying of thali, there was no other ceremony. The Income-tax Officer, therefore, charged the assessee in the status of an unmarried individual. The Tribunal did not accept that view and proceeded on the basis of factum valet and other grounds. During the pendency of this reference, luckily for the assessee, Madras Act No. 21 of 1967 has been enacted. The effect of this Act is to validate with retrospective effect a union only by tying of thali without any other ceremony. This is clear from Section 7A which has been inserted by the State Legislature into the Hindu Marriage Act, 1955. Sub-section (4) of this section makes it further clear that any child of the parties to the marriage validated as aforesaid shall be deemed to be their legitimate child. It follows, therefore, that the Tribunal's view is in any case correct. The reference is answered against the revenue, but with no costs.