Supreme Court of India
M.P. Peria Karuppan Chettiar vs Commissioner Of Income Tax, ... on 19 November, 1974
Equivalent citations: AIR 1975 SC 431, 1975 99 ITR 1 SC, (1975) 3 SCC 439, 1975 (7) UJ 100 SC
Author: A Gupta
Bench: A Gupta, H Khanna
JUDGMENT A.C. Gupta, J.

1. The point for consideration is the same in these two sets of appeals brought on certificate granted by the Court of Madras M.P Peria Karuppan Ghettiar, appellant in Civil Appeals Nos. 10901092 of 1970, is a brother of M.R.M. Ramaswami Chettiar, appellant in Civil Appeals Nos. 1093 and 1094 of 1970. The appeals preferred by M.P. Peria Karuppan Chettiar arise out of a reference under Section 66(1) of the Indian Income Tax Act, 1922, Section 27(1) of the Wealth Tax Act, 1957, and Section 26(1) of the Gift Tax Act, 1968 made at the instance of the Commissioner of Income-tax, Wealth Tax, and Gift Tax, Madras, for determination of the following questions :

1. Whether on the facts and in the circumstances of the case, the status of the assessee was correctly determined as Hindu Undivided family for the Income-tax, Wealth Tax and Gift Tax assessments of 959 60; 1957-58 and 1958-59 respectively?

2. Whether on the facts and in the circumstances of the case, the sum of Rs. 1,60,000/- transferred to the account of Muthukaruppan and Palaniappan (sons of Peria Karuppan Chettiar) in the previous year ending on 13-4-58 was liable to assessment under the Gift Tax Act ?

2. The reference under the Income-tax Act relates to the assessment year 195???-60, under the Wealth Tax Act to the assessment year 1957-98, the valuation date being April 12, 1957, and under the Gift Tax Act to the assessment year 1958-1959.

3. The appeal by M.R.M. Ramaswami Ghettiar arises out of a reference under Section 27(1) of the Wealth Tax Act at the instance of the Commissioner of Wealth Tax, Madras for a decision on the following question :

Whether on the facts and circumstances of the case the assessee's status is that of a Hindu Undivided family for the assessment year 1959-60 and 1960-61 ?

The status of the assessee in either group of appeals would depend on a correct construction of two documents executed in 1992 by their father Muthukaruppan Chettiar relevant facts are briefly as follows:

4. Muthukaruppan Chettiar had business interests and other proper ties both in Ceylon and India. He had four sons, Narayanan, Ramaswami (Appellant in C As. Nos. 1093 and 1094 of 1970). Periakaruppan (appellant in Civil Appeals Nos. 1090-1092 of 1970) and Palaniappan by two deeds, both executed on April 26, 1932 Muthukaruppan Chettiar conveyed by way of gift all his business interest and properties in Ceylon to his first three sons. It is stated that the fourth son who was a minor at the time was given cash and properties in India equal to one fourth of the value of his

father's entire assets. For some time following the execution of the deeds of gift Narayanan, Ramaswami and Periakaruppan carried on the business in Ceylon in partnership. Muthukaiuppan Chettiar died in May 1932 On December 20, 1950 a deed was executed by the four brothers partitioning the residue of their father's properties. Till the assessment year 1957-58, Perikaruppan filed returns in the status of an individual and was assessed as such. For the first time in the assessment year 1958-59 he claimed to be assessed in the status of a Hindu Undivided family consisting of himself and his two sons Muthukaruppan and Palanippan. The Income-tax Officer rejected this claim and the assessment for the aforesaid assessment year became final. Thereafter Periakaruppan transferred to each of his two sons a sum of Rs. 30,000/- and Rs. 60,000/- on May 14, 1957 and January 12, 1958 respectively. In the Income-tax assessment for the assessment year 1959-60, the previous year ending on April 13, 1959 Periakaruppan again claimed the status of a Hindu undivided family. The claim was again rejected by the Income-tax Officer.

5. Also in the wealth-tax proceeding for the assessment year 195758, valuation date being April 12, 1957, Periakaruppan claimed the status of a Hindu undivided family. The Wealth Tax Officer rejected the claim.

6. In the gift-tax proceeding for the assessment year 1958-59 the previous year ending on April 13, 1958 the Gift-tax officer brought under assessment the sums of Rs. 30,000/- and 50,000/ amounting to Rs. 80,000/- which Periakaruppan had transferred to each of his two sons. According to the assessee the aforesaid sums were not transferred to his sons by way of gift but by way of partial partition among the members of the Hindu undivided family consisting of himself and his two sons. The Gift-tax officer did not accept this claim. The appellate Assistant Commissioner on appeals preferred by the assessee held that he should have been assessed in the status of a Hindu Undivided Family and on this view allowed the assessee's claim in the income tax, wealth-tax and gift-tax proceedings. The Tribunal upheld the Appellate Assistant Commissioner's decision and dismissed the appeals preferred by the Department from his order.

7. Ramaswami Chettiar also was being assessed in the status of an individual for many years even after the deeds of gift were executed. In the assessment year 1959-60 for the first time he claimed before the income-tax officer that he should be assessed in the status of a Hindu Undivided family. The Income-tax Officer rejected the claim. In the wealth tax assessment for 1959-60 a similar claim put forward by him was also rejected by the wealth tax officer. On appeal the Appellate Assistant Commissioner held that the property belonged to the Hindu Undivided family consisting of the assessee and his son and on this view allowed the assessee's claim. On appeal preferred by the Department, the Tribunal upheld the order of the Appellate Assistant Commissioner.

8. On these facts the questions of law set out above were referred to the High Court for determination. The High Court was unable to agree with the reasoning and conclusion of the Tribunal that the assessee's claim to be assessed as Hindu Undivided Families was justified. Accordingly, in Periakaruppan's case the High Court answered the first question in the negative and against the assessee, and the second question in the affirmative and against the assessee. On the same reasoning the question referred in Ramaswami's case was answered in the negative and against the assessee.

9. The status of Hindu Undivided family was claimed upto the High Court mainly on the assumption that the Ceylon assets conveyed to his three sons by Muthukaruppan Chettiar in 1932 were ancestral property. It has been found, however, that these assets were Muthukaruppan's self-acquired property and not ancestral In this Court Mr. S.T. Desai appearing for the appellant in both sets of appeals contended that on a proper construction of the two deeds executed by Muthukaruppan in 1932 it would appear that the gift was really not to the sons absolutely but to their respective family branches of which they were the heads. There is no dispute that if the sons only were the donees, what they received by the gift would not be ancestral property in their hands, in view of the fact that the Ceylon assets were the self-acquired property of the donor. If, however, the donor wasted to confer, as the High Court put it, a "cumulative benefit" on the respective family units of the three sons, the property gifted would to be the property of the Hindu Undivided Family in each case. The question therefore is one of construction of the two deeds and, as held by this Court in C. N. Arunarhalam Mudaliar v. C A Muruganatha Mudaliar and Anr. (1954) SCR 243 in such a case "the court would have to collect the intention of the donor from the language of the document taken along with the surrounding circumstances in accordance with the well known canons of constructions."

10. The relevant portions of the two deeds are in identical language; in one of them the donor's business interests in Ceylon and in the other his share in "several estates, plantations and premises" were transferred The documents state that the donor was desirous or "donating" the properties specified in the documents to his three sons Narayanan, Ramiswami and Periakiruppan, who were referred to in the documents as donees, in consideration of the natural love and affection which the donor had for them and for "diverse other causes and considerations". Prompted by the desire as stated above, the donor transferred the properties "unto the said donees, their respective heirs, executors, administrators, and assignees". According to Mr. ST. Disai the words "diverse other causes and considerations" were significant and indicated that the gift was not the sons absolutely. We are afraid we do not quite see the point of this argument. It was not claimed that these words made any difference to the character of the deeds which were accepted by the Income-Tax authorities, the Tribunal and the High Court as deeds of gift. These "diverse other causes and considerations" together with the donor's natural love and effection for his sons prompted him to execute the documents. What ever the reasons were behind the gift they are not relevant on the question as to who were the object of the bounty.

11. Mr. Desai further pointed that the gift was stated to be in favour of the donees and "their respective heirs, executors, administrators and assignees" which according to him, indicated that really the object of the bounty were the sons as heads of their respective families. We are unable to agree. It is clear from the deeds that the donor's desire was, to transfer the properties to the three sons whom he named and described as donees. It was not stated that the donees would take the property as heads of their family units. The sum of the words "heirs, executors, administrators & assignees" in the context in which they appear in our opinion, indicate on the contrary that the gift was to the sons absolutely, the property gifted being both heritable and alienable. There is nothing in the two documents to suggest that the interest transferred to the sons was limited in any way. The surrounding circumstances also do not supp ort Mr. Desai's centention. As stated already, for many years following the gift the appellant in either group of appeals used to file returns in the status of an

individual and was being assessed as such. In all these years no complaint was made that they should have been assessed in the status of a Hindu undivided family. This fact was sought to be explained by appellant Periakaruppan. as would appear from the supplementary statement of case submitted by the Tribunal pursuant to the order of this Court dated April 12, 1973, by stating that "since the income was not below the limit at which different rates of tax would operate, it was immaterial for income-tax purposes whether the assessee filed the return in his individual capacity or in his capacity as Karta of the HUF" until the assessment year 1957-58 when he became conscious of the position having learnt that under the Wealth tax, Act the exemption limit was Rupees four lakhs for a Hindu undivided family as against Rupees two lakhs in the case of an individual. We do not consider this statement convincing or sufficient to explain why the assessee continued filing returns for so many year in the status of an individual.

12. Mr. Desai further sought to argue that the appellant in either set of appeals threw the property received by gift in the common stock. But there is no evidence on record to support this case of belending which seems to have been argued for the first time in this Court.

13. For the reasons stated above, the appeals fail and are dismissed with costs. One hearing fee in each group of appeals.