



REAL ESTATE

TAX

ITAT Chennai Rules Minor's Share in Inherited Property Cannot Be Taxed in Guardian's Hands

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Introduction

The Income Tax Appellate Tribunal (ITAT), Chennai, has delivered an important ruling clarifying the taxation of property inherited by minors. In *Pradeep Jeyavelu v. Income Tax Officer*^[1] (2025), the Tribunal held that the share of a minor child in inherited property, when deposited under court directions, cannot be clubbed with the income of the guardian for capital gains purposes. The decision highlights the balance between the **Income Tax Act, 1961** and the protective framework of the **Hindu Minority and Guardianship Act, 1956**, ensuring that minors' rights are safeguarded while preventing unfair tax burdens on guardians.

Table of contents

- [Introduction](#)
- [Background of the Case](#)
- [Legal Analysis](#)
- [Clubbing of Minor's Income \(Section 64, Income Tax Act\)](#)
- [Transfer and Capital Gains \(Section 45, Income Tax Act\)](#)
- [Guardianship Law \(Section 8\(2\), Hindu Minority and Guardianship Act, 1956\)](#)
- [Tribunal's Reasoning](#)
- [Ruling](#)
- [Significance of the Ruling](#)
- [Author's View](#)

Background of the Case

The dispute arose from the sale of a residential property originally owned by the late wife of the assessee, Mr. Pradeep Jeyavelu. Upon her death, the property devolved equally on the assessee and their minor daughter as legal heirs. Seeking to provide for his daughter's education and welfare, Mr. Jeyavelu approached the City Civil Court, Chennai, for permission to sell the property. The Court, by an order dated 27.03.2015, granted approval subject to the condition that 50% of the sale proceeds representing the minor's share be deposited in a nationalized bank in the name of the Registrar, City Civil Court, under Section 8(2) of the Hindu Minority and Guardianship Act, 1956.

Following the sale, the assessee accounted for his 50% share of the consideration, offered it to tax as long-term capital gains, and claimed deduction under Section 54 of the Income Tax Act, 1961. However, the Assessing Officer held that the minor's share should also be clubbed with the assessee's income under the clubbing provisions, and the CIT(A), NFAC, Delhi, confirmed this view. Aggrieved, with this the assessee appealed before the ITAT, arguing that he had no control over the minor's share, which remained under judicial custody, and therefore it could not be taxed in his hands.

Legal Analysis

The Tribunal's decision hinged on the interplay between the **Income Tax Act, 1961** and the **Hindu Minority and Guardianship Act, 1956**.

Clubbing of Minor's Income (Section 64, Income Tax Act)

Under Section 64(1A), a minor's income is generally required to be clubbed with that of the parent or guardian. However, this applies where the parent/guardian has control or beneficial enjoyment of the minor's income.

In the present case, the minor's share of the sale proceeds was deposited under court directions in the name of the Registrar, City Civil Court. The assessee had no access or discretion to use the amount. Hence, the precondition for clubbing was absent.

Transfer and Capital Gains (Section 45, Income Tax Act)

A transfer of property triggers capital gains taxation in the year of transfer. The assessee rightly offered his 50% share of the gains to tax and claimed exemption under Section 54 by reinvesting in residential property.

The controversy was confined to the daughter's 50% share, which was safeguarded under judicial custody and could not be treated as the assessee's income.

Guardianship Law (Section 8(2), Hindu Minority and Guardianship Act, 1956)

Any transfer of a minor's property requires prior court approval.

Here, the City Civil Court's permission expressly required that the minor's share be deposited in a nationalized bank. This judicial condition ensured that the funds were ring-fenced until the minor attained majority.

Tribunal's Reasoning

Since the assessee had no control or benefit from the minor's share, it could not be clubbed in his hands for capital gains purposes.

The ITAT emphasized that taxability depends on ownership and control over income, not merely the occurrence of transfer.

The Tribunal also accepted the assessee's claim for brokerage expenses (1% of sale consideration), acknowledging it as a customary cost in real estate sales.

Ruling

The Chennai Bench of the Income Tax Appellate Tribunal allowed the appeal in favour of the assessee. The Tribunal held that:

The minor daughter's share of sale consideration, deposited in a nationalized bank under the custody of the City Civil Court pursuant to Section 8(2) of the Hindu Minority and Guardianship Act, 1956, could not be brought to tax in the assessee's hands. Since the assessee had no control or beneficial enjoyment of the amount, the clubbing provisions under Section 64(1A) of the Income Tax Act, 1961 were not attracted.

The assessee's declaration of capital gains on his own 50% share and claim of exemption under Section 54 was in accordance with law and already accepted by the Assessing Officer. The addition of the minor's share of capital gains in the assessee's hands was therefore unjustified and liable to be deleted.

Further, the disallowance of brokerage expenses (1% of the sale consideration), made for want of evidence, was also deleted by the Tribunal after accepting the assessee's explanation that such costs are a customary part of real estate transactions.

Accordingly, the ITAT set aside the orders of the Assessing Officer and the CIT(A), NFAC, Delhi, and allowed the appeal in full.

Significance of the Ruling

Protection of Minors' Rights: Recognizes that a minor's inherited property and proceeds, when safeguarded under court orders, cannot be taxed in the guardian's hands.

Limits of Clubbing Provisions: Clarifies that clubbing provisions do not apply where the guardian has no control over the minor's share.

Practical Relief for Taxpayers: Provides important guidance in succession cases involving minors, ensuring that guardians are not unfairly burdened with tax on assets beyond their control.

Recognition of Real Estate Practices: Acknowledges brokerage as a legitimate expense in property transactions.

Author's View

This ruling by the ITAT, Chennai, strikes the right balance between tax law and the protective framework of guardianship law. By holding that the minor's share, placed under judicial custody, cannot be clubbed with the guardian's income, the Tribunal has reinforced the principle that taxation must follow control and beneficial enjoyment of income, not mere technical ownership. The judgment provides much-needed clarity for cases involving inheritance by minors, where guardians often act under court supervision without discretion over the assets.

The recognition of brokerage expenses as a legitimate deduction is equally pragmatic. Together, these findings strengthen the fairness of tax administration while protecting the rights of vulnerable stakeholders such as minors. This decision will be persuasive precedent in similar disputes, ensuring that neither guardians are unfairly burdened with additional tax liabilities nor minors deprived of their rightful property interests.

[1] I.T.A. No.1626/Chny/2025

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