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## **Co-ownership and Tax Liability in House Property: Doctrinal Analysis and Emerging Reforms**

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### **Abstract:**

Co-ownership of properties significantly complicates the taxation of income from housing property in India. Under the Income Tax Act, 1961, Beneficial ownership, ascertainability of shares, and clubbing provisions have always been inviting disputes when legal title does not commensurate with actual economic contribution. Over the years, several court rulings have elucidated these ambiguities; prominently, Podar Cement, Indira Balkrishna, and Jodha Mal were milestone cases that, through precedents, steadily shaped the significant ruling that prioritises substantive ownership over mere legal form. These precedents checked tax avoidance by means of artificial transfers within families and upheld that tax incidence must follow economic benefit. In the context of prevailing jurisprudence, the amended Income Tax Act 2025 attempts to rationalise the taxation law by simplifying computation, strengthening clarity on deductions, and streamlining administration through digital compliance. The paper examines the statutory and jurisprudential framework regulating co-ownership, analyses real-world implications of the amended Act, and offers professionally orientated recommendations for documentation and compliance. It concludes that the amended Act significantly enhances transparency, diminishes litigation risk, and improves predictability for taxpayers and authorities while continuing substantive principles remaining unaltered.

**Keywords:** Co-ownership, House Property, Beneficial ownership, Clubbing of Income.

## **1. Introduction**

Mounting property values, joint family arrangements, and co-financing among spouses and successors have resulted into rendering co-ownership of residential property as a significant phenomenon of urban housing in India. Although these arrangements may seem ingenuous in form, they pose intricate questions under the income tax laws especially when legal ownership is not in accordance with the financial stake or beneficial interest. The taxation of income from house property in co-ownership situations therefore involves a delicate nexus of legislative interpretation, judicial doctrine, and tax-avoidance policy. By prioritizing substance over form and making sure that tax liability follows actual economic ownership rather than nominal title, Indian tax jurisprudence has over the time resolved these intricacies. In this framework, by updating and streamlining the current structure without altering long-standing principles, the amended Income Tax Act, 2025 acquires distinct legal significance. This article contextualises the law of co-owned house property within its doctrinal and judicial foundations and assesses how emerging legislative reforms seek to enhance clarity, minimise disputes, and promote greater compliance among taxpayers and administrators equally.

## **2. Objectives**

1. Analyse the legal framework regulating the taxation of co-owned residential property under the Income Tax Act of 1961.
2. Analyse significant legal precedents regarding beneficial ownership, AOP assessment, and clubbing regulations.
3. Evaluate the degree to which the amended Income Tax Act, 2025 elucidates deductions, value, and computation in instances of co-ownership.
4. Present illustrative scenarios and a comparative case law table for academic and professional use.



5. Provide practical recommendations to enhance tax planning, documentation, and compliance in accordance with the existing Act and amended Act.

### 3. Methodology

- With the purpose to understand how taxes are applied to co-ownership in India, the study employs a doctrinal legal research approach, which involves a detailed investigation of laws, court judgements, and proposed changes to the law.
- The study primarily examines Sections 22, 26, 27, and 64 of the Income-tax Act of 1961. Ownership, co-ownership with unambiguous shares, deemed ownership, and clubbing income granted to partners or minors are all covered in these sections.
- The evolution of judicial interpretations regarding beneficial ownership, the classification of associations of persons (AOPs), and the use of anti-avoidance measures within the context of familial arrangements are examined through an analysis of significant precedents including Supreme Court decisions.
- The amended Income Tax Act, 2025, along with the observations of the Select Committee, is analysed to evaluate the potential impact of forthcoming reforms on computation and compliance. Credible tax platforms and financial news outlets provide contextual policy insights, while hypothetical numerical examples demonstrate the practical application of ownership shares and clubbing regulations.
- The research emphasises on doctrinal interpretation rather than empirical investigation and only covers residential property. 1961 Act and reforms under amended 2025 Act on co-ownership taxation are examined.
- While secondary sources limit the examination, judicial and policy materials may not reflect regional differences. Delimitations purposely exclude commercial property taxation, cross-border difficulties, complex valuation standards, and key taxpayer data.

These boundaries clarify and allow a thorough study of Indian tax law co-ownership and beneficial ownership principles.

#### **4. Discussion**

##### **4.1 Statutory Framework under the Income-tax Act, 1961**

The statutory framework governing taxation of co-owned house property is anchored in key provisions of the Income-tax Act, 1961. Section 22 imposes tax on income from house property in the hands of the “owner,” interpreted as the person entitled to receive the income rather than merely the legal title holder. Section 26 provides that when co-owners hold definite and ascertainable shares, each is assessed separately on their respective share, and the income is not treated as that of an Association of Persons (AOP). Section 27 expands the concept of ownership by including deemed owners—such as individuals who have transferred property without adequate consideration, persons enjoying rights of part performance, or those holding beneficial ownership. Complementing these, Section 64 contains clubbing provisions under which rental income from assets transferred to a spouse, minor child, or daughter-in-law without consideration may be included in the transferor’s income. Collectively, these provisions ensure that tax liability follows real economic contribution and beneficial enjoyment, prioritising substance over mere legal form in determining ownership for tax purposes.

##### **4.2 Landmark and Recent Judicial Precedents and Their Impact**

Indian courts have played a pivotal role in clarifying tax liability arising from co-owned house property, consistently emphasising beneficial ownership over mere legal title. In *CIT v. Podar Cement Pvt. Ltd.* (1997), the Supreme Court held that the true test of taxability is beneficial ownership, meaning income is taxable in the hands of the person who contributes funds and



enjoys the property, even if the legal title stands in another's name—for example, when a husband buys property but registers it in his wife's name. Similarly, in *CIT v. Indira Balkrishna* (1960), the Court ruled that an Association of Persons (AOP) can exist only when persons voluntarily come together with a common intention to earn income; thus, mere co-ownership does not constitute an AOP, and Section 26 applies where shares are definite. Reinforcing substance over form, the decision in *R.B. Jodha Mal Kuthiala v. CIT* (1971) clarified that the taxable owner is the person entitled to receive and enjoy the income, not merely the individual whose name appears on the title, preventing benami holders and nominees from avoiding tax. A recent Income-Tax Appellate Tribunal (2025), Bangalore ruling determined that capital gains from the sale of property gifted by husband to his wife are taxable in the husband's name. The property was conveyed without compensation via a gift deed, and the wife subsequently sold it, reporting the profits on her tax return. The Tribunal invoked Section 64(1)(iv) of the Income-tax Act, which necessitates the aggregation of income generated from assets transferred to a spouse without sufficient consideration. Capital gains, classified as “income” and derived directly from the transferred asset, were mandated to be aggregated with the husband's income, despite the legal ownership being in the wife's name.

#### **4.3 Clubbing Rules, Exceptions, and Their Contemporary Relevance**

The clubbing provisions under the Income-tax Act, 1961 play a central role in ensuring that tax liability reflects genuine economic ownership rather than artificial arrangements within families. The Act mandates that income accruing to a minor child is clubbed with the income of the parent, except where such income arises from the minor's own skill, talent, or specialised activity. Similarly, when assets are transferred to a spouse without adequate consideration, any resulting rental income is clubbed with the transferor's income, thereby preventing tax avoidance through nominal transfers. The amended Act, 2025, through Clause 99, retains these

foundational anti-avoidance measures but enhances clarity in three key areas: intra-family transfers, exceptions for independently earned income, and documentation standards required to establish genuine separate ownership. By maintaining continuity while strengthening procedural transparency, the amended Act, 2025 reinforces long-standing substantive tax principles and helps reduce ambiguity and litigation in co-ownership and family-transfer scenarios.

#### **4.4 Deductions & Clarifications Introduced under the amended Act, 2025**

The Income Tax Act, 2025 introduces two significant clarifications that directly improve the computation of income from co-owned house property. First, it explicitly reaffirms the standard deduction of 30% on the gross annual value, thereby removing any historical ambiguity surrounding its applicability and ensuring uniform treatment across taxpayers. Second, the Bill clarifies the apportionment of pre-construction interest for let-out properties, a provision of particular importance when co-owners have contributed unequal amounts to the property's acquisition or financing. By providing clearer rules for allocating such deductions, the amended Act enhances transparency, reduces interpretational disputes, and strengthens consistency in property-income computations. Together, these refinements simplify compliance for co-owners and promote greater certainty in tax administration.

#### **4.5 Administrative Simplification and Anti-avoidance Clarity**

The amended Act, 2025 introduces several administrative and structural reforms aimed at simplifying compliance and reducing disputes in property-related taxation. It simplifies the law for taxpayers and practitioners to operate, by streamlining it into a clarity-driven, more coherent form with reduced and more systematically arranged sections. In order to prevent inadvertent tax burdens resulting from inconsistent interpretations, the amended Act also repealed



provisions pertaining to vacant properties that were subject to interpretational ambiguity. Furthermore, faceless uniform assessment mechanisms and enhanced online compliance platforms have substantiated digital governance. The Act enhances clarity by establishing explicit forms and disclosure requirements, so minimising subjectivity and promoting greater consistency in the assessment of co-ownership arrangements and clubbing provisions. These combined measures boost openness, encourage predictability, and greatly lower the chance of legal disputes in the area of residential property taxation.

#### **4.6 Practical Co-ownership Scenarios under the 1961 Act and the 2025 Act**

##### **Scenario A: Husband Contributes 100% but Property is in Joint Names**

When the husband finances the entire purchase but the property is registered in joint names, the principle laid down in *CIT v. Podar Cement* (1997) applies. Under the 1961 Act, tax liability follows beneficial ownership, meaning the entire rental income is taxable in the husband's hands regardless of the joint title. The 2025 Bill does not alter this substantive rule but enhances clarity in computation—particularly in applying the 30% standard deduction and allocating interest on borrowed capital—making compliance smoother and reducing interpretational disputes.

##### **Scenario B: Wife sold land that her husband had originally received and then *gifted* to her by a registered deed.**

Appellate Tribunal (ITAT), Bangalore. held that the capital gains arising from the sale of property gifted by the husband to the wife must be taxed in the husband's hands, under Section 64(1)(iv) of the Income-tax Act. The amended Act maintains the same anti-avoidance principle but offers clearer computational rules for deductions, thereby simplifying reporting without changing the underlying tax incidence.

### **Scenario C: Wife Contributes ₹20L from Her Own Independent Savings**

Where the wife contributes from independently earned income or accumulated savings, no clubbing applies. Income is apportioned strictly according to actual financial contribution, and each co-owner is taxed separately under Section 26. Both spouses can independently claim the 30% standard deduction and their proportionate share of interest on borrowed capital. The amended Act 2025 preserves this substantive treatment while reinforcing clarity in allocation and documentation requirements.

### **Scenario D: Minor Child as Co-owner**

If a minor child appears as a co-owner, the clubbing rules under Section 64 become operative. The minor's share of rental income is added to the income of the parent whose total income is higher, subject to statutory exemptions for income arising from the minor's own skill or talent. The 2025 Act strengthens procedural transparency through improved digital filing formats and streamlined disclosures, making the clubbing process clearer and easier to administer.

### **Scenario E: Four Heirs Inheriting Property Equally**

When property is inherited jointly by four heirs with equal shares, Section 26 and the ruling in *CIT v. Indira Balkrishna* (1960) ensure that each heir is taxed individually on their respective share. Since there is no collective volition or shared profit motive, the arrangement does not constitute an AOP. Under the amended Act, simplified valuation, clearer deduction rules, and better documentation standards further ease compliance for such inheritance-based co-ownership structures.



## 5. Comparative Table: Case Law, Principles, and Implications

Case Law	Key Principle	Implication for Co-ownership
<i>CIT v. Podar Cement (1997)</i>	Beneficial ownership governs taxability	Income taxed to real contributor; title holder alone irrelevant
<i>Indira Balkrishna (1960)</i>	AOP requires common intent; mere co-ownership insufficient	Definite shares → individual assessment under Section 26
<i>R.B. Jodha Mal (1971)</i>	Tax follows entitlement to income	Prevents misuse through benami/nominee names
<i>Sushama Rajesh Rao vs. DCIT</i>	Spousal share funded by gift → clubbing	Strengthens anti-avoidance through family transfers
<b>Income-tax Act, 2025</b>	Reaffirms 30% deduction; clarifies interest	Reduces computation errors and litigation

## 6. Conclusion

In property taxation, liability is determined by real and beneficial ownership rather than solely by legal title (*Podar Cement*). Simply co-ownership or joint management of inherited property, without a mutual aim to generate income, does not form an Association of Persons (*Indira Balkrishna*). Income is consequently taxed to the individual who actually derives the benefits and exercises control over the property (*R.B. Jodha Mal*). Consistently, when an asset is gifted to a spouse without consideration, any income or capital gains generated from that asset are clubbed and taxed in the hands of the transferor, regardless of the transferee's legal ownership (*Sushama Rajesh Rao*). A consistent conceptual framework supports the taxation of co-owned house property in India, where tax liability is based on **real ownership, economic contribution, and beneficial enjoyment**. Judicial authorities, including the Supreme Court, have supported this substantive viewpoint through precedents so advancing equity and

discouraging tax evasion resulting from artificial ownership arrangements. These underlying ideas are not significantly altered by the Amended Act 2025. Instead, it improves their usefulness through clearer deductions, simplified language, streamlined compliance processes, and increased administrative transparency. Co-owners, who often face interpretive challenges when determining taxable income and allocating deductions, will particularly benefit from these changes.

### **7. Key Guidance for Taxpayers and Practitioners:**

- i. Maintain clear and admissible documentation of financial contributions and ownership proportions.
- ii. Understand that beneficial ownership takes precedence over nominal ownership.
- iii. When gifts or minor children are involved, cautiously apply clubbing provisions.
- iv. Apply the clarified provisions of the amended Act to calculate deductions precisely.
- v. Use contemporary digital systems to facilitate seamless assessments.

### **Works Cited:**

Caalley. (2024). *Income-tax Bill 2025: Key highlights and deductions*.

<https://www.caalley.com>

Commissioner of Income Tax v. Indira Balkrishna, 39 ITR 546 (Supreme Court of India, 1960).

Commissioner of Income Tax v. Podar Cement Pvt. Ltd., 226 ITR 625 (Supreme Court of India, 1997).

Commissioner of Income Tax v. R. B. Jodhamal Kuthiala, 82 ITR 570 (Supreme Court of India, 1971).



Deputy Commissioner of Income Tax v. Sushama Rajesh Rao, ITA No. 2734/Bang/2017  
(Income Tax Appellate Tribunal, Bangalore, 2017).

eFileTax. (2023). *Clubbing of income under the Income-tax Act.* <https://www.efiletax.in>

IndiaFilings. (2024). *Faceless assessment and digital compliance reforms.*

<https://www.indiafilings.com>

Income-tax Act, 1961 (India).

Income-tax Bill, 2025 (India).

KPMG. (2025). *The Income-tax Bill 2025: Key amendments proposed by the Select Committee.* <https://home.kpmg>

Kotak Securities. (2024). *Overview of income from house property and implications for taxpayers.* <https://www.kotaksecurities.com>

Lok Sabha Secretariat. (2025). *Report of the Select Committee on the Income-tax Bill, 2025.*

Government of India.

Reuters. (2024). *India's new Income-tax Bill aims to simplify compliance.*

<https://www.reuters.com>

TaxTMI. (2024). *Clause-wise analysis of the Income-tax Bill, 2025.*

<https://www.taxmanagementindia.com>

### **Reference Websites**

Indian Kanoon. <https://indiankanoon.org/>

Income tax India. <https://www.incometaxindia.gov.in/>

LexiBal. <https://lexibal.com/>