Preserving the Legacy of Tax Jurisprudence: Law of Repeal & Savings - in Focus Income-Tax Act, 2025

Aseem Chawla, Senior Advocate*

1. Introduction

The Legislature has introduced the Income-Tax Act, 2025 *("2025 Act")*, which has the effect of repealing the Income-Tax Act, 1961 *("1961 Act")*. The transition from the 1961 Act to the 2025 Act is regulated by Section 536 of the 2025 Act, which is encapsulated under the "Repeal and Savings" Chapter and is a Full-Scale Transitional Provision.

Section 536 of the 2025 Act is not a mere repealing provision but a transitional provision in the form of a statutory instrument, preserving the legal efficacy and operative effect of the repealed provision for such duration as may be necessary. Notably, the 2025 Act consolidates 819 sections into 536 and reduces Statutory Forms from 399 to 190. Structural Compression that underscores the legislative intent to restate and simplify, rather than to abrogate established rights or jurisprudence.

Section 536 (b) of the 2025 Act, *inter-alia* is declaratory, in as much as, the repeal of 1961 Act shall not affect any rights, privileges, obligations, or liabilities acquired or incurred under this Act prior to such repeal; and any such rights, privileges, obligations, or liabilities shall continue and be given full effect as if this Act had not been repealed. It also clarifies that the provisions of the 1961 Act shall continue to apply to matters arising under this Act, notwithstanding such repeal.

The provision of section 536 (c) of the 2025 Act extends to all proceedings that have been initiated or are pending in respect of the Tax Years that have commenced prior to April 1, 2026, which includes assessments, reassessments, penalty proceedings, appeals, references, notices, and other allied proceedings that have been undertaken in accordance with the earlier law.

The Transitional Provisions, viz. the carry forward and setting off of losses under Section 536 (m), (n) of the 2025 Act, stand preserved and shall continue to have full force and effect as stipulated therein, until such proceedings are finally disposed of or dealt with in accordance with the framework of the 2025 Act. For instance, search and seizure proceedings that were initiated prior to April 1, 2026, continue to be governed by the 1961 Act, even if such proceedings result in assessments or litigation in subsequent years, such as 2027.

The above legislative regime, when viewed with the assistance of settled legal *Principle(s) of Continuity, Express Repeal, Implied Repeal, and Pari Materia*, provides a framework that govern the parameters of the application of the jurisprudence set out under the 1961 Act, ushering in the 2025 Enactment legislative regime.

2. Interpretive Doctrinal Framework Governing Transition.

The foregoing legislative structure, grounded in Section 536 of the 2025 Act, does not operate in isolation. Four well-known Theme(s) of Statutory Constructions i.e. the Doctrine of Continuity, the Doctrine of Express Repeal, the Doctrine of Implied Repeal, and the Doctrine of Pari Materia, serves as the foundation for its seamless operation and cogent interpretation. Together, these Doctrines act as interpretive safeguards, guaranteeing that the transition from one legislative regime to another is orderly, morally sound, and does not result in unforeseen legal flaws or disruptions. These concepts cooperate to maintain the normative and jurisprudential continuity that is essential to an efficient and predictable tax administration, rather than viewing the Repeal of the 1961 Act as a clean break.

(a) Doctrine of Continuity.

Section 536 of the 2025 Act is an illuminating illustration of the Doctrine of Continuity. This section views the repeal of an Act not as a disruption of the legislative process but as a continuum of the transition from one legislative system to another. Substantive rights are maintained, procedural continuity is ensured, and although the obligation to comply with the 2025 Act is prospective, cases brought about under the 1961 Act may be gradually concluded in accordance with the previous system.

The 1961 Act is now accorded the status of a "*Sunset Law*". Although it is repealed, it will still have a limited and residual application relating to rights, liabilities, and proceedings that existed during its time, until such rights are fully extinguished in accordance with the law. This is operationally confirmed by Section 536(2)(c) of the 2025 Act, which expressly mandates that all assessments, reassessments, penalty proceedings, and appeals relating to tax years beginning before April 1, 2026 shall be carried out under the 1961 Act, even if concluded years later, giving the 1961 Act a continuing and residual operative force.

One of the chief highlights of Section 536 of the 2025 Act is the Carry-Over of Judicial Precedents in respect of earlier years, even though the provisions have been restated or restructured in the 2025 Act.

Judicial construction under the 1961 Act, therefore, remains relevant to the determination of disputes arising under the Act, unless the new law depicts a clear and material departure from the earlier legislative regime. When the legislature substantially amends/changes a provision, either in its structure, scope, or basic framework, earlier judicial precedents may not automatically apply, and new questions of interpretation may arise.

The Hon'ble Supreme Court has consistently held that judicial construction of law is sensitive not only to similarity of text but also to structural location and legislative context. In the landmark decision of *CIT v. B.C. Srinivasa Setty [(1981) 128 ITR 294 (SC)]*, the Hon'ble Apex Court held that the scheme and location of provisions in an enactment are often decisive of their construction. In the decision of *K.P. Varghese v. ITO [(1981) 131 ITR 597 (SC)]*, the Hon'ble Apex Court relied on legislative context and structural consistency to determine statutory construction, highlighting the importance of contextual construction in fiscal enactments.

(b) Doctrine of Express Repeal.

The term "*Express Repeal*" implies that the legislature uses words that reveal its clear intention to annul the earlier statute. The general practice is to use the words "*is hereby repealed*" or "*are hereby repealed*" and to specify the Acts to be repealed within the section repealing them. Following this convention, Section 536 of the 2025 Act states, "The Income-tax Act, 1961 is hereby repealed," thus expressing an express repeal of the earlier Act. Nevertheless, the repeal is not in its entirety.

Section 536 embodies a well-crafted savings provision that maintains continuity. Of particular importance is its phraseology, Section 536(2)(j) of the 2025 Act which manifests that all rules, notifications, orders, circulars, and directions issued or made under the 1961 Act, and which are in force immediately before the commencement of the 2025 Act, shall continue to be in force after the commencement of the 2025 Act, as if they were issued under the corresponding provisions of the 2025 Act, unless they are inconsistent with the provisions of the 2025 Act, until they are amended, superseded, or rescinded in accordance with the 2025 Act.

The efficacious takeaway of this savings architecture is that both the Act(s) operate concurrently for a transitional period. For instance, a taxpayer in July 2026 simultaneously files their Assessment year ("AY") 2026-27 return under the 1961 Act and pays Advance Tax for Tax Year 2026-27 under the 2025 Act, which is a vivid illustration of how the savings clause sustains the 1961 Act as a living operative law rather than a mere historical artefact.

This legislative approach accords with settled principles of statutory drafting and interpretation. As observed in the seminal exposition of ***Bennion, Bailey and Norbury on Statutory Interpretation (Eighth Edition, 2023)***, Express Repeal is the prevailing technique in modern legislation. The authors note that a variety of formulations may be employed to effect repeal and that all such expressions are equally efficacious in law. While contemporary practice favours expressions such as "*is repealed*" or "*omit*", earlier formulations such as "*ceases to have effect*" were also commonly used, and each is legally sufficient

to achieve the intended result. What is decisive is not the choice of words, but the clarity with which the legislature conveys its intention to repeal.

(c) Doctrine of Implied Repeal.

The Doctrine of Implied Repeal is underpinned by the proposition that the Legislature, being fully aware of the existence of other laws, does not intend to produce any conflict between such laws. The Courts are guided by legislative intent to produce harmony in the application of the legislative enactments involved.

The Hon'ble Supreme Court has echoed this in *State of M.P. v. Kedia Leather & Liquor Ltd. & Ors. [AIR 2003 SC 3236]*, holding that courts are averse to the implication of a repeal unless there is a repugnancy between the two Acts to such an extent that it is impossible to give effect to both at the same time, as highlighted in *Craies on Statute Law (Seventh Edition) & Re: Berrey (1936) Ch. 274*. The Hon'ble Apex Court further held that until the true meaning and effect of the earlier Act are ascertained, it is impossible to determine whether there is any inconsistency in fact.

Apart from the above savings provision under Section 536 of the 2025 Act, the continued application of the subordinate legislation and the accrued rights under the 1961 Act would also be valid under the doctrine of Implied Repeal. Under the doctrine of Implied Repeal, if there is a provision in the repealed Act and a provision in the 2025 Act which are directly repugnant to each other, the 2025 Act shall prevail to the extent of the repugnancy. However, if the provisions in the two Acts are capable of being given effect to together, then both shall co-exist, and the earlier law shall continue to be operative in so far as it is consistent with the 2025 Act.

This nuanced understanding of Implied Repeal was succinctly articulated in the decision rendered in case of *Winslow v. Morton*, as duly noted in *J.G. John Lewis's Statute and Statutory Construction (1904).* The Court observed that an implication of repeal must be necessary in order to be operative, and where such implication arises from repugnancy between two enactments, the later statute abrogates the earlier only to the extent that the inconsistency is irreconcilable.

The said judgment further recognised that, wherever it is possible and reasonable to do so, earlier and later statutes should be construed together so as to give effect not only to the operative provisions of the later enactment, but also to the earlier law as a whole, subject only to such restrictions or modifications as appear to have been intended by the legislature. Importantly, the Court clarified that a statute will not be deemed to have been repealed merely because certain of its provisions are repeated in a subsequent enactment, unless the later statute plainly manifests an intention to operate as a complete substitute.

Indian courts have consistently recognised that repeal followed by re-enactment does not, by itself, efface earlier judicial interpretations. The decisive factor is the *legislative intention*, which must be gathered from the language, scheme, and substance of the new enactment. Judicial precedents establish that where the later statute substantially reproduces the earlier provision, the interpretation previously placed upon it continues to govern.

(d) Doctrine of Pari Materia.

The Doctrine of "*Pari Materia*" is a rule of statutory interpretation which mandates that statutes dealing with the same subject matter, or forming part of the same legislative scheme, must be read together as one coherent and integrated system.

Per the Commentary on ***Statutory Construction (3rd Edition, Sutherland, Vol. 2, p. 535)***:

> *"Statutes are considered to be in Pari Materia to pertain to the same subject matter when they relate to the same person or thing, or to the same class of persons or things, or have the same purpose or object."*

The term *"Pari Materia"* means *"upon the same subject"*. The doctrine is based on the presumption of constitutional intent that, upon re-enacting or substituting an existing earlier statute, the Legislature acts with full cognizance of the judicial constructions placed upon the provisions of the earlier statute being re-enacted or substituted.

When the later statute significantly reproduces the terms and structure of the earlier provision, the earlier judicial construction is normally to be applied, unless a different legislative intent emerges from the new statutory provision or its structural setting. The

doctrine thus maintains continuity in statutory interpretation and has been applied in the taxation field by Indian courts – in the case of *J.K. Steel Ltd. v. UOI [1970 AIR 1173]*, where the Hon'ble Supreme Court of India held that provisions dealing with similar subject matter are to be construed together in order to avoid any inconsistency or absurdity in interpretation.

The Doctrine of *Pari Materia*, however, applies only if the legislature has not changed the essence or scheme of the provision. If the legislative structure itself is changed, either by introducing a change in the burden of proof, by reorganizing a condition precedent, or by recasting the essential character of the provision, then the earlier judicial precedents cannot ipso facto apply to the new statute.

Only to the extent of substantive consistency can the earlier judicial pronouncements be applied. Below are two contrasting examples that will help to illustrate this distinction:

- ***Illustration (i)*** – General Anti Avoidance Rule ***("GAAR")*** provisions under the 2025 Act have the same legislative intention as that of the 1961 Act. The legislature has only replaced the word "*notwithstanding*" with the word "*irrespective of,*" which does not change the essence of the provision. It is only a semantic change. The courts are likely to apply the available jurisprudence under the 1961 Act to the similar provisions of the 2025 Act, as the principles remain the same unless the legislative intent clearly shows otherwise. The doctrine of Pari Materia is thus applicable.
- ***Illustration (ii) – Definition of Associated Enterprise: Where Pari Materia does not Apply:*** Under the 1961 Act, in respect of Section 92A, there had been a two-step process – first, the law had required real participation in management, control, or capital, either directly or through common ownership. It is only after this basic test is satisfied that the Revenue could fall back on the thirteen deeming provisions set out in Section 92A(2), which had been specifically stated to apply "*for the purposes of sub-section (1)*". This interpretative position has been judicially affirmed in *Page Industries Ltd. v. PCIT [2021] 124 taxmann.com 605 (Kar.)(HC),* wherein reliance was placed on *CIT v. Veer Gems [2017] 83 taxmann.com 271 (Guj.)(HC)*. The Special Leave Petition against the latter judgment was dismissed by the Hon'ble Supreme Court, thereby affirming the legal position

However, under Section 162 of the 2025 Act that deals with the meaning of Associated Enterprises, the two-stage format has been completely overhauled. This section now offers a single, integrated definition. The words "*for the purposes of sub-section (1)*" have been replaced by "*without affecting the generality of the provisions of sub-section (1)*", a move that has ascribed self-executing effect to the former deeming provisions. Sub-section (2) is no longer dependent upon or subordinate to sub-section (1), but rather is meant to be self-executing as well as illustrative.

The former judicial interpretation, which had made the application of the deeming provisions contingent upon a wider determination of participation in management, control, or capital, is logically at odds with this new statutory scheme. The Doctrine of Pari Materia is therefore inapplicable to Section 162 of the 2025 Act. The Doctrine of Pari Materia is relevant only when the legislature does not seek to disturb the essence or scheme of the provision; when the statutory scheme itself is repatterned, former judicial decisions under the old provision cannot automatically regulate the new provision.

3. Some Notable Judicial Exposition.

The above analytical framework finds robust support in a well-established line of Supreme Court and High Court decisions.

The Hon'ble Supreme Court in the case of *T.S. Baliah v. T.S. Rengachari (AIR 1969 SC 701)* inter-alia observed:

> "*…But when the repeal is followed by fresh legislation on the same subject the Court would undoubtedly have to look to the provisions of the new Act, but only for the purpose of determining whether they indicate a different intention. The question is not whether the new Act expressly keeps alive old rights and liabilities but whether it manifests an intention to destroy them…*"

It may be inferred by a reading of the above that courts will refer to the new enactment only to identify real, substantive changes. If there are no meaningful differences between the old provision and the new one, the earlier judicial interpretation will continue to apply to the corresponding provision in the 2025 Act.

In the case of *Bengal Immunity Co. Ltd. v. State of Bihar & Ors. (AIR 1955 SC 661)*, Hon'ble Supreme Court held that:

"It is a well-settled rule of construction that when a statute is repealed and re-enacted and words in the repealed statute are reproduced in the new statute, they should be interpreted in the sense which had been judicially put on them under the repealed Act, because the Legislature is presumed to be acquainted with the construction which the Courts have put upon the words, and when they repeat the same words, they must be taken to have accepted the interpretation put on them by the Court as correctly reflecting the legislative mind……"

This principle rests on the constitutional presumption that the legislature is fully aware of existing judicial interpretations. By consciously reproducing the same words without alteration, the legislature is deemed to have endorsed and incorporated the settled judicial meaning into the new statute.

In the case of *Gammon India Ltd. v. Special Chief Secretary & Ors. [(2006) 3 SCC 354]*, Apex Court held as follows:

"…as a rule of construction the simultaneous repeal and reenactment of the same statute in terms or in substance is a mere affirmance of the original act, and not a repeal in the strict and constitutional sense of the term. Where the reenactment is in the words of the old statute, and was evidently intended to continue the uninterrupted operation of such statute, the new act or amendment is a mere continuation of the former act, and not in a proper sense a repeal…"

In *Kaliyannan v. Sangeetha & Ors. [2020 (5) CTC 689],* Hon'ble Madras High Court opined, relying upon Ex parte Campbell (LR 5 Ch 703), as follows:

"In Ex parte Campbell reported in LR 5 CH 703 James. L.J reiterated the well-established principle to be applied in consideration of Acts of Parliament that where a word of doubtful meaning has received a clear judicial interpretation, the subsequent statue which incorporates the same word or the same phrase in a similar context must be construed so that the word or phrase is interpreted according to the meaning that has previously been assigned to it. James. L. J expresses the rule in the following terms, "Where once certain words in an act of parliament have received the judicial construction in one of the superior courts and the legislature has repeated them without alteration in a subsequent statute, I conceive that the legislature must be taken to use them according to the meaning which a court of competent jurisdiction has given to them.""

All the above-cited decisions lay down the basic principle that the judicial interpretations of a repealed provision do not lose their forcefulness merely due to a repeal.

The critical test in every case is always whether the new legislation reveals a clear intention to change the legal stance, and in the absence of such an intention, the existing judicial wisdom continues to prevail.

4. The Mechanics of Continuity: Application of Provisions Section 536 of the Income-Tax Act, 2025.

The transitional framework under Section 536 provides a fertile ground for examining the continued relevance of judicial precedents. The operation of its several clauses demonstrates that while proceedings and rights originating under the 1961 Act continue to subsist, not all judicial interpretations automatically migrate to the new regime.

Below-illustrated are some prominent instances where the existing jurisprudential position remains operative:

- **Refunds and Interest — Section 536(2)(g):** Refunds pertaining to Assessment Year 2026-27, even if processed after the commencement of the 2025 Act, are governed by a split-regime approach.

  The computation of the refund, as well as interest attributable to the period up to 31 March 2026, continues to be governed by the 1961 Act. Interest accruing on or after April 1, 2026 is governed by the 2025 Act. Judicial rulings interpreting refund and interest provisions under the 1961 Act therefore retain full applicability for the relevant period.

- **Conditional Deductions — Section 536(2)(h):** A deduction under Section 54 ***(Profit on sale of property used for residence)*** claimed in Financial Year 2025-26 continues to carry its original statutory conditions even after the introduction of the 2025 Act. If the taxpayer violates those conditions in a subsequent year, the consequence is given effect under the 2025 Act, but the substantive conditions and their judicial interpretation remain rooted in the 1961 Act.

Precedents interpreting Section 54 ***(Profit on sale of property used for residence)*** and similar provisions therefore continue to govern the determination of compliance and breach.

- **MAT and AMT Credits — Section 536(2)(l):** Credits accumulated up to 31 March 2026 under the Minimum Alternate Tax ("MAT") and Alternate Minimum Tax ("AMT") provisions of the 1961 Act are seamlessly carried forward into the 2025 Act and remain available for utilisation against future liabilities.

  The Repeal of the 1961 Act does not extinguish any vested economic benefit already accrued. Judicial rulings governing the nature and utilisation of MAT/AMT credits under the 1961 Act continue to inform their treatment under the new regime.

- **Carry Forward of Losses — Section 536(2)(m) and (n):** Business and capital losses available as on 31 March 2026 are permitted to be carried forward and set off in accordance with the provisions of the 2025 Act.

  Judicial precedents under the scheme of 1961 Act relating to computation, characterisation, and eligibility of such losses remain relevant in determining the quantum and nature of losses eligible for carry forward.

- **Search and Seizure Proceedings — Section 536(2)(v):** Proceedings initiated prior to April 1, 2026 continue to be governed entirely by the 1961 Act, irrespective of the date on which such proceedings conclude.

  Even where assessments pursuant to such searches extend into 2027 or later years, all procedural and substantive provisions of the 1961 Act remain applicable. Judicial rulings interpreting search, seizure, and consequential assessments under the 1961 Act thus retain complete and undiluted relevance.

- **Circulars and Notifications — Section 536(2)(j):** Departmental circulars, notifications, and instructions issued under the 1961 Act remain operative under the 2025 Act, provided they are not inconsistent with its provisions.

  For instance, a circular interpreting the term 'work' under Section 194C of the 1961 Act continues to inform the corresponding provision under Section 393 of the 2025 Act. Judicial decisions interpreting such circulars and notifications under the 1961 Act therefore retain their persuasive value under the new regime.

- **Options and Elections — Section 536(2)(f):** An Election or Declaration validly exercised under the 1961 Act is deemed to have been made under the corresponding provision of the 2025 Act, provided such a corresponding provision exists.

  Where no corresponding provision exists in the 2025 Act, the earlier election cannot survive through the deeming fiction alone. Judicial precedents interpreting the scope and conditions of such elections under the 1961 Act remain relevant to determining their continued validity but only to the extent the 2025 Act contains a mapped provision

5. Analysis & Conclusion: Interpretive Continuity A Constitutional Imperative

The Repeal of the 1961 Act by the 2025 Act does not lead to a complete negation of the judicial principles established under the earlier regime. This is particularly so owing to the intent reflected in the legislative design of Section 536. By providing for the continued applicability of all Rules, Notifications, Orders, Circulars, and Directions issued under the earlier enactment, in so far as such Rules, Notifications, Orders, Circulars, and Directions are not inconsistent with the provisions of the new enactment, The Extant Provisions ensure a seamless continuation of the jurisprudence established under the earlier enactment till such time as such jurisprudence may be amended, replaced, or lapsed in accordance with the provisions of the 2025 Act.

This phenomenon of Maintenance of Continuity protects both Substantive and Procedural Continuity. Notably, however, the continued effectiveness of such subordinate legislation and judicial interpretation thereof is not dependent upon the existence of an express savings clause. In fact, even in the absence of Section 536, the Doctrine of Implied Repeal would achieve a similar effect.

Taken all in collegiality, the Principles of Continuity, Express Repeal with Savings, Implied Repeal, and Pari Materia each support the instant prognosis, that the transition from the 1961 Act to the 2025 Act be viewed as an evolutionary process rather than a revolutionary one on its own and collectively otherwise.

It must, however, be averred that such interpretive continuity is not absolute in nature, especially when the 2025 Act has made significant changes to the structure, the aspect of burden of proof, or in some situation alterations in the very essence of a

provision. In other words, when a new provision has made significant changes to the structure, absolute possible reliance on judicial precedents ought not to be viewed conclusive, especially when the changes are fundamental in nature.

The illustration given in Section 162 of the 2025 Act, with reference to the definition of Associated Enterprise, is a prime example of the same, where a de novo interpretive exercise must be undertaken, and that the new provision be interpreted accordingly.

The contrastive illustrations provided in the instant anayalis, on the one hand, of GAAR, on the other, of Associated Enterprise, and, as a living precedent of the 1961 Act era, which Section 536 of the 2025 Act keeps alive, collectively reveal the nuanced and calibrated manner in which the interpretive legacy of the 1961 Act is incorporated into the jurisprudence of the 2025 Act.

The judicial wisdom being inherited is not inherited en masse, but rather selectively, and to the extent of the precise degree of substantive continuity between the old provision and the new provision; Where such continuity exists, the Doctrine of Pari Materia shall be applicable, and where it does not, the doctrine shall not be applicable.

Thus, it is apparent that the shift from the 1961 Act to the 2025 Act is a jurisprudential continuum, which encapsulate the wisdom of decades of judicial interpretation and is presumptively remains in force, unless a clear contrary legislative intent is ex-facie evident in the 2025 Act or where an irreconcilable inconsistency with the established doctrine is palpably apparent. Unless a contrary legislative intent or inconsistency is evident, the accumulated judicial wisdom developed over six decades in the interpretation of the 1961 Act continues to subsist with equal force and authority under the 2025 Act, as it did under the 1961 Act.

Aptly the Courts have consistently held all along that the determinative factor is not the act of repeal per se, but whether the new enactment manifests a clear & contrary legislative intent vis-a-vis erstwhile legislation or gives rise to an irreconcilable inconsistency in the backdrop of the Established Doctrinal Position.

(Source: Article published in E-Souvenir of Golden Jubilee Conference held on 16th & 17th May, 2026 at Jaipur)

❍□❍

[Source : AIFTP Journal, June 2026]