

## The Commissioner of Income-tax, Bombay City II, Bombay v. M/s. Jadavji Narsidas & Co.

Civil Appeal No. 545 of 1961

[1963] Supp 1 SCR 609 | 1962-10-12

### Set-off of loss from an unregistered venture against profit of a registered firm and evidentiary review under section 66

Indian Income-tax Act, 1922: sections 16(1)(b), 23(5), 24 and 66(2)

Three-judge bench; majority judgment delivered by M. Hidayatullah, J.; A. K. Sarkar, J. wrote separately. | J. L. Kapur, J. | A. K. Sarkar, J. | M. Hidayatullah, J.

#### Mixed result

The Court upheld the High Court on absence of evidentiary support for denying the business, but reversed the claimed set-off against the registered firm's profit.

#### 01 FACTS OF THE CASE

The registered assessee firm claimed Rs.1,05,641 as its share of a speculative loss from a venture with Damji Laxmidas, treated as an unregistered firm. The officer and Tribunal rejected the claim, questioning whether the joint business existed and also treating an unregistered firm's loss as unavailable in the assessee firm's assessment.

Source: [Primary judgment: facts and referred questions](#)

#### 02 DISCUSSION BY THE HON'BLE COURT

A section 66 reference does not permit ordinary appellate reweighing, but a no-evidence finding cannot rest on conjecture. The record showed a real course of business and did not support "purchase of losses." Legally, however, the registered firm could not itself partner with Damji; any venture was between Damji and the four partners individually. The 1922 Act confined an unregistered firm's loss to that firm's own profits.

Source: [Primary judgment: evidentiary and set-off reasoning](#)

#### 03 JUDICIAL DECISION

The High Court's affirmative answer on absence of evidence was upheld. Its answer permitting the registered firm to set off the unregistered venture's loss was set aside and answered in the negative. Possible treatment in the partners' individual assessments was left open.

Source: [Primary judgment: answers to reference](#)

#### 04 OUTCOME / IN WHOSE FAVOUR

The Commissioner succeeded only on the second question. Because success was divided, the parties were directed to bear their own costs in the Supreme Court and High Court.

Source: [Primary judgment: operative order](#)

## 05 AKHB REVIEW POINT

AKHB analysis: separate proof that a venture existed from the legal identity of the assessee entitled to use its loss. A valid factual finding about a venture does not itself permit one firm to absorb another unregistered venture's loss. Current partnership-loss treatment must be checked under the present statute.

Source: [Primary judgment: review-point basis](#)

## SOURCE & VERIFICATION

### [Supreme Court Reports scan - public eSCR mirror](#)

Complete 16-page SCR asset read in page-preserving text and every page image inspected; the opening lines conclude the preceding Chockalingam report and the Jadavji report then runs through its final order.

### [Open cited source rendition](#)

Exact catalogue SHA-256 and 16-page count verified; the complete report was read and every source page image inspected.

## STATUTORY SCOPE

The decision concerns the distinct treatment of registered and unregistered firms under sections 16, 23 and 24 of the Indian Income-tax Act, 1922.

## LATER TREATMENT

Source checked 2026-10-12. No comprehensive later-treatment or present-law clearance is represented. This note reports a historical loss-set-off decision under the 1922 Act.

## AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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