

Kylasa Sarabhiah, Bombay Cloth Shop, Secunderabad v. Commissioner of Income-tax, Andhra Pradesh

Civil Appeal No. 83 of 1964

[1965] 2 SCR 310 | 1964-12-01

Income-tax Act, 1922 section 26A: registration could not be refused where a reasonably construed deed identified the individual partners and defined their shares despite using a collective firm description.

Indian Income-tax Act, 1922: sections 26A and 59 | Income-tax Rules under the 1922 Act: Rules 2, 3, 4 and 6

5-judge bench | P. B. Gajendragadkar, C.J. | M. Hidayatullah, J. | J. C. Shah, J. | S. M. Sikri, J. | R. S. Bachawat, J.

Assessment years: 1956-57

Fact-specific deed construction

The Court did not approve a firm as a legal partner. It found that the deed, read as a whole, made the three adult members of the Yarn Shop and four outsiders the individual partners and defined their shares.

Superseded registration framework

The section 26A registration regime and Rules construed were under the 1922 Act. Current entity, tax and partnership requirements must be checked independently.

01 FACTS OF THE CASE

The appellant cloth firm sought registration under section 26A for AY 1956-57. Its deed described the Kylasa Sarabhiah Yarn Shop collectively as one participant with a 0-6-9 share and named four outsiders. The Yarn Shop comprised three adult members and four minors admitted to benefits; its profit share was to be divided equally among all seven, while its loss share was borne equally by the three adults. The officer, appellate authorities and Tribunal refused registration, reasoning that shares and minors' benefits were not sufficiently specified and that a firm had been introduced as a partner. The Andhra Pradesh High Court answered the referred registration question against the assessee.

Source: [Application, shares and refusal history: SCR pp.311-312 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

A firm is not itself a person under general partnership law, so a deed between a firm and others ordinarily makes the firm's members, not the firm, partners; a collective share without individual specification may defeat section 26A registration. But the instrument had to be reasonably construed. Here its preamble identified the Yarn Shop's three adults, allocated its profits equally among those adults and four minors admitted to benefits, and allocated losses equally among the adults. All adult partners signed the application and were individually bound. The word specify meant mentioning, describing or defining in detail, not necessarily writing exact fractions. A possible defect in the separate Yarn Shop agreement did not defeat registration of the appellant firm if the appellant met the statutory conditions.

Source: [Partnership identity, specified shares and deed-construction reasoning: SCR pp.312-315 / PDF pp.3-6](#)

03 JUDICIAL DECISION

The Court held that the deed, read as a whole, specified the individual shares and showed an agreement among individual adult partners rather than a firm as partner. The section 26A conditions were fulfilled, so registration could not be refused. It allowed the appeal, discharged the High Court's answer, substituted an affirmative answer and awarded the appellant costs in the Supreme Court and High Court.

Source: [Registration holding and operative order: SCR pp.314-315 / PDF pp.5-6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee firm. The registration question was answered affirmatively because the adult partners and their shares were sufficiently defined in the instrument and application. The ruling did not treat the Yarn Shop firm itself as a legal partner.

Source: [Assessee outcome and limit: SCR pp.314-315 / PDF pp.5-6](#)

05 AKHB REVIEW POINT

AKHB analysis: test a partnership instrument by substance and internal consistency. It should identify every adult partner, define profit and loss allocation, separately state minors' limited benefits, and obtain required signatures. A collective label should not obscure who is legally bound. Apply only the current statutory and partnership-document requirements, not the superseded section 26A procedure.

Source: [AKHB analysis based on the reasonable-construction and specification rulings](#)

SOURCE & VERIFICATION

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

Full 6-page SCR report read; the editorial headnote on PDF p.1 was distinguished from Shah J.'s judicial opinion on PDF pp.2-6.

Open cited source rendition

Exact 185,299-byte source, SHA-256 and six-page count match catalogue asset 1965_2_310_315.

The report verifies Civil Appeal No. 83 of 1964, decision date 1 December 1964, the five-member bench and opinion by Shah J.

The application was for AY 1956-57 and stated a collective 0-6-9 share for the Yarn Shop while the preamble defined the internal profit and loss shares.

The Court distinguished Dulichand because the present deed and application bound and were signed by the adult partners individually.

STATUTORY SCOPE

This decision concerns firm registration under section 26A and the Rules made under the Indian Income-tax Act, 1922 for AY 1956-57. It does not establish present registration, assessment or partnership consequences under the Income-tax Act, 1961 or current partnership law.

LATER TREATMENT

Source checked 2026-10-10. Later judicial treatment and present statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

AI-assisted research. The AKBH Review Point is editorial analysis, not part of the Court's judgment.

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. It is not legal or tax advice. Verify the original judgment, applicable statutory version and subsequent judicial treatment before relying on it. The AKBH Review Point is editorial analysis, not part of the Court's judgment.