

Commissioner of Income-tax, Bombay, South Poona v. Murlidhar Jhawar & Purna Ginning and Pressing Factory, Dharmabad

Civil Appeal No. 327 of 1965

[1966] 3 SCR 219 | 1966-01-07

Whether, after knowingly assessing each participant's share of joint-venture income individually, the Income-tax Officer could assess the same income again in the hands of an unregistered firm.

Indian Income-tax Act, 1922: sections 3, 23(3) and 23B

3-judge bench | K. Subba Rao, J. | J. C. Shah, J. | S. M. Sikri, J.

Assessment years: 1954-55

Knowledge was essential

The bar followed because the officer knew the material relationship and jointly interested trading activity when making the individual assessments. The Court did not hold that an uninformed first assessment always fixes the choice.

Same income cannot be taxed twice

The holding concerns a second collective assessment of the same joint-venture income after individual inclusion, not different income streams or an independently authorised correction.

Historical entity-choice regime

The case construes section 3 and the 1922 Act treatment of unregistered firms and participants. Present assessment and anti-avoidance rules require separate analysis.

01 FACTS OF THE CASE

For AY 1954-55, Murlidhar Jhawar, Pannalal Lahoti and Govindbai had jointly traded in groundnut, cotton and cotton-seed. The officer first added one-third of Rs. 51,280 as joint-venture profit to each participant's individual assessment. He then required Murlidhar to return the venture's income as an unregistered firm and assessed that entity under section 23(3) at Rs. 80,925. The AAC confirmed. The Tribunal set aside the collective assessment, while directing restoration of the status quo ante on counsel's concession. The Bombay High Court answered the reference against Revenue, which appealed.

Source: [SCR pp. 220-221](#) / [PDF pp. 2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 3 treated an association or firm and its members or partners as distinct assessable alternatives. The officer could assess the participants individually or assess them collectively as an unregistered firm, but could not tax the same income twice. Revenue argued that the officer lacked knowledge of the unregistered firm when making the first assessments, so no binding option had been exercised. The Court accepted that an election between alternatives assumes knowledge of both, but found the premise unsupported. The officer knew the three parties had entered jointly interested commodity transactions, separately included one-third of the venture profit in each individual assessment, and described that addition as provisional even though it was common ground that section 23B provisional assessment did not apply. Returns and individual orders were not produced to establish ignorance, and no such factual plea had been made before the AAC or Tribunal. The record therefore showed an informed choice, not ignorance of material facts.

Source: [SCR pp. 221-223 / PDF pp. 3-5](#)

03 JUDICIAL DECISION

The Supreme Court held that the officer had knowingly exercised the option to assess the three participants separately and could not thereafter assess the same joint-venture income again in the hands of an unregistered firm. Revenue's appeal was dismissed with costs.

Source: [SCR p. 223 / PDF p. 5](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee/respondents against the second collective assessment of the same income. The Court did not validate an entity-choice claim made without proof of the officer's knowledge, and the Tribunal's status-quo-ante direction rested on counsel's concession rather than a separate merits holding.

Source: [SCR pp. 220-223 / PDF pp. 2-5](#)

05 AKHB REVIEW POINT

AKHB analysis: where Revenue asserts an alternative entity assessment, build a chronology showing what the officer knew, which income was included, the legal status assigned, and whether the later assessment reaches the same income. Preserve returns, assessment orders and the reason for any protective or provisional label. This authority is strongest when the first choice was informed and the later demand duplicates the identical income; current provisions governing firms, reassessment and protective assessments must be checked independently.

Source: [AKHB analysis based on SCR pp. 221-223 / PDF pp. 3-5](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Full 5-page SCR report read, including visual reading of the scan-only editorial headnote on PDF page 1; the judicial opinion begins on PDF page 2/SCR 220 and ends on PDF page 5/SCR 223.

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The report verifies Civil Appeal No. 327 of 1965, the three-judge bench and the opinion by J. C. Shah J.

The first source page has no usable extracted text and was read from the rendered page image; the remaining judicial text was checked against page images and extraction.

STATUTORY SCOPE

This decision applies the Indian Income-tax Act, 1922 to a historical choice between assessment of an unregistered firm and its participants. It is not a current firm-assessment, reassessment or protective-assessment clearance; modern statutory consequences require independent verification.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive later treatment and current statutory equivalence have not been verified; no current-law or citator clearance is represented.

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