

Commissioner of Income-tax, West Bengal, Calcutta v. Juggilal Kamalapat

Civil Appeal No. 127 of 1966

[1967] 1 SCR 784 | 1966-10-07

Firm registration and partnership property: relinquishment of a partner's interest did not require registration merely because partnership assets included immovable property.

Indian Income-tax Act, 1922: sections 26A, 66, 66(4) and 66A(2) | Registration Act, 1908: section 17(1)

3-judge bench | J. C. Shah, J. | V. Ramaswami, J. | V. Bhargava, J.

Assessment years: 1943-44

Historical firm-registration procedure

The registration relief arose under section 26A of the 1922 Act and should not be treated as a statement of the current statutory procedure.

Reference scope mattered

The Court proceeded on the firm's factual existence because the referred question concerned legal validity; it did not conduct a fresh genuineness inquiry.

01 FACTS OF THE CASE

Three Singhanian brothers and Jhabbarmal Saraf carried on the Juggilal Kamalapat hosiery business. After the brothers created the Kamla Town Trust, they executed a deed relinquishing their interests in the old firm's assets in favour of Saraf and themselves as trustees. A new partnership between Saraf and the Trust was documented, specifying profit-and-loss shares; the Trust introduced Rs.50,000 capital. The tax authorities refused section 26A registration for AY 1943-44, principally because the unregistered relinquishment deed was thought incapable of transferring interests where the old firm's assets included immovable property. The High Court held the firm legally constituted and registrable.

Source: [Trust, partnership, assets and registration refusal: SCR pp.785-787 / PDF pp.2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

A firm's factual existence and its legal validity were different questions. The section 66 reference raised only legal validity; a pure factual genuineness finding could not have been referred, so the Court rejected the Commissioner's attempt to reopen factual existence. On legal validity, the executed partnership deed, fixed shares and Trust contribution themselves established a valid partnership. A partner's interest is a right to profits and, on dissolution or retirement, to a share in net partnership assets—not an exclusive interest in each underlying asset. Following Addanki Narayanappa, relinquishment of the brothers' partnership interests did not require registration merely because firm assets included land and buildings. Alternatively, even if registration were needed for immovables, the separable transfer of movable assets remained effective and the new partnership was still valid.

Source: [Reference limited to legal validity, not factual genuineness: SCR pp.788-789 / PDF pp.5-6; Partnership interest, registration and alternative severability: SCR pp.789-791 / PDF pp.6-8](#)

03 JUDICIAL DECISION

The Court held that the deed of relinquishment of the brothers' partnership interests was valid without registration, notwithstanding immovable assets in the firm's portfolio. In any event the deed remained effective for separable movable assets. The new partnership was valid in law, and the Commissioner's appeal was dismissed with costs.

Source: [Relinquishment validity, alternative and dismissal: SCR pp.790-791 / PDF pp.7-8](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee-firm. The partnership's legal validity and entitlement to section 26A registration were sustained; the Revenue's appeal was finally dismissed with costs.

Source: [Valid partnership and operative dismissal: SCR p.791 / PDF p.8](#)

05 AKHB REVIEW POINT

AKHB analysis: in historical firm-registration disputes, separate genuine formation as fact, legal validity, title to individual assets and compliance with the tax-registration procedure. Partnership property doctrine may prevent a partner's interest from being treated as direct ownership of each immovable asset, but transaction-specific documents and current registration law must still be checked. Frame a tax reference narrowly: factual genuineness and legal validity travel through different review routes.

Source: [AKHB analysis based on reference scope and partnership-property reasoning](#)

SOURCE & VERIFICATION

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

Full 8-page SCR report read; the editorial headnote on PDF pp.1-2 was distinguished from Bhargava J.'s unnumbered opinion beginning on PDF p.2.

Open cited source rendition

Exact source bytes, SHA-256 and eight-page count match catalogue asset 1967_1_784_791; all pages were read and visually checked.

The report verifies Civil Appeal No. 127 of 1966, the 7 October 1966 decision date and the three-member bench.

The partnership deed, Rs.50,000 trust contribution and the legal effect of the unregistered relinquishment deed were treated as distinct matters.

STATUTORY SCOPE

The case applies the registration and reference regime of the repealed Indian Income-tax Act, 1922 for AY 1943-44. Present partnership-registration tax rules and later treatment have not been checked.

LATER TREATMENT

Source checked 2026-10-10. Later tax-registration and partnership-property treatment has not been comprehensively checked; no current citator clearance is represented.

AI DISCLOSURE

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