

Commissioner of Income-tax, Gujarat v. Kantilal Nathuchand Sami

Civil Appeal No. 676 of 1965

[1967] 1 SCR 813 | 1966-10-11

Historical registered-firm speculation losses: whether losses segregated under the first proviso to section 24(1) remained with the firm for carry-forward and set-off against its later speculation profits.

Indian Income-tax Act, 1922: sections 10(2), 23(1), 23(3), 23(5)(a), 24(1) and 24(2)

3-judge bench; unanimous judgment delivered by V. Bhargava, J. | J. C. Shah, J. | V. Ramaswami, J. | V. Bhargava, J.

Assessment years: 1958-59, 1959-60, 1960-61

1922 Act registered-firm scheme

The result depended on the interaction of the two provisos to former section 24(1) and section 24(2); it must not be transposed to a later statutory scheme.

Speculation loss was segregated

The loss excluded from the total-income computation under the first proviso was not part of the residual loss apportioned among partners under the second proviso.

Later AKHB-covered decision distinguishes this case

The existing Kerala decision concerning assessment years 1964-65 onward explains that sections 73 and 75 of the 1961 Act materially changed the registered-firm position.

No wider loss rule

The Court decided only the treatment of the firm's historical speculation loss and did not establish a general rule for all partnership losses.

01 FACTS OF THE CASE

The registered firm carried on property, ready-kappa and speculation activities. It incurred speculation losses in assessment years 1958-59 and 1959-60 and a speculation profit of Rs.6,19,784 in 1960-61. The Income-tax Officer did not set the earlier losses against the firm's other income but apportioned them among the partners. When the firm later claimed the losses against its 1960-61 speculation profit, the officer refused. The appellate authority, Tribunal and Gujarat High Court ultimately accepted the firm's carry-forward position (SCR pp.814-816; PDF pp.2-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The first proviso to section 24(1) removed speculation losses from set-off against other business profits and from the firm's total-income computation. Reading 'any loss' in the second proviso to include that segregated loss would nullify the first proviso; only the residual loss forming part of total income was apportioned to partners. Section 23(5)(a) did not independently require apportionment of a loss excluded from total income. Proviso (c) to section 24(2), which restricted how a registered firm could carry forward loss, also presupposed that some unapportioned loss could remain with the firm. The Court declined to follow the contrary Bombay view in Commissioner of Income-tax v. Chimanlal J. Dalal & Co. (SCR pp.816-820; PDF pp.4-8).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court upheld the Gujarat High Court and dismissed the Revenue's appeal with costs (SCR p.820; PDF p.8).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the registered firm. Its historical speculation losses could be carried forward and set off against the firm's later speculation profit under the 1922 Act scheme (SCR pp.819-820; PDF pp.7-8).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: trace whether a loss ever entered the entity's total-income computation before asking who carries it forward. Here the speculation loss was segregated before partner apportionment. The later 1961 Act registered-firm provisions were materially different, so this holding requires statute-specific treatment rather than current-law generalisation (based on SCR pp.816-820; PDF pp.4-8).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 8-page SCR report read and checked. The editorial headnote and adjacent-report boundary text were distinguished from the judicial opinion and operative order.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 8-page count match catalogue asset 1967_1_813_820; every page was reviewed.

The source verifies Civil Appeal No. 676 of 1965, the stated bench, issues, reasoning and operative result.

No published or archived standalone AKHB note with this source hash, case identity and operative decision was found.

STATUTORY SCOPE

The holding concerns a registered firm under the repealed 1922 Act. The Supreme Court later distinguished this scheme when applying sections 73 and 75 of the 1961 Act. This note does not state current speculation-loss or partnership rules, and no comprehensive later-treatment clearance was undertaken.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

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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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