

Parekh Wadilal Jivanbhai v. Commissioner of Income-tax, M. P. Nagpur and Bhandara, Nagpur

Civil Appeal No. 1058 of 1965

[1967] 1 SCR 998 | 1966-10-28

Firm registration: equal partner shares were sufficiently specified when the partnership deed was reasonably construed as a whole with the Partnership Act default and consistent surrounding records.

Indian Income-tax Act, 1922: sections 23(6), 26A, 59 and 66(1) | Income-tax Rules, 1922: rules 2, 3, 4 and 6 | Indian Partnership Act, 1932: sections 4 and 13

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

Assessment years: 1953-54

Historical firm-registration regime

The decision concerns section 26A of the 1922 Act and its Rules. Its reasonable-construction principle should not be treated as relaxing any current documentary or filing requirement.

01 FACTS OF THE CASE

Three brothers continued two Nagpur branches as a new firm from 1 November 1949 under a deed dated 19 March 1950. Clause 3 divided capital equally into five shares for each partner; clause 10 said net profit or loss would be divided among all partners, without separately stating percentages. Registration was granted for AY 1951-52 and renewed for AY 1952-53. For AY 1953-54 the officer refused renewal because the deed did not expressly specify each partner's profit share. The appellate authorities and Bombay High Court upheld the refusal even though registration applications and the books consistently showed equal allocation.

Source: [Partnership formation, deed terms and registration history: SCR pp.999-1001 / PDF pp.2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted that section 26A and the Rules had to be strictly complied with because registration conferred a tax-rate benefit, but held that the instrument must still be reasonably construed. Clause 3's equal capital allocation, clause 10's direction to divide net profit or loss among all partners, section 13 of the Partnership Act, the equal shares stated in each registration application and the consistent accounting allocation together specified equal one-third shares in profits and losses. Following *Kylasa Sarabhaiah*, strict compliance did not require ignoring an allocation ascertainable from the deed read as a whole in its relevant context.

Source: [Registration requirements and Partnership Act context: SCR p.1001 / PDF p.4](#); [Whole-deed construction, equal shares and *Kylasa Sarabhaiah*: SCR pp.1002-1003 / PDF pp.5-6](#)

03 JUDICIAL DECISION

The Court held that the instrument sufficiently specified equal one-third shares and that the firm was entitled to registration for AY 1953-54. It answered the referred question affirmatively in the firm's favour, allowed the appeal and awarded the firm costs in the Supreme Court and High Court.

Source: [Entitlement to registration and operative allowance: SCR p.1003 / PDF p.6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee firm. Renewal of registration for AY 1953-54 could not be refused merely because the equal percentages were not repeated in an express profit-sharing clause when the deed and relevant context specified them.

Source: [Firm's successful outcome: SCR p.1003 / PDF p.6](#)

05 AKHB REVIEW POINT

AKHB analysis: draft partnership instruments with express profit and loss percentages even where equality might be inferred. For a historical registration dispute, assemble the signed deed, prescribed applications, capital accounts, profit-and-loss allocations and prior registration orders, then test whether the allocation is ascertainable from the instrument read as a whole. Do not use this ruling to cure a current statutory filing defect without checking the governing regime and later authorities.

Source: [AKHB analysis based on reasonable construction and contemporaneous allocation evidence](#)

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 the unnumbered judgment beginning on PDF p.2; the deed terms, statutory extracts, precedent discussion and operative order were all reviewed.

Open cited source rendition

Exact source bytes, SHA-256 and six-page count match catalogue asset 1967_1_998_1003; every PDF page was read.

The report verifies Civil Appeal No. 1058 of 1965, decision on 28 October 1966, the three-member bench and AY 1953-54.

No Parekh Wadilal Jivanbhai record exists in content/supreme-court-cases.json. A later published judgment cites this precedent but is not the same case or an alternate source.

STATUTORY SCOPE

This decision applies the firm-registration regime under section 26A of the repealed Indian Income-tax Act, 1922 and then-applicable Rules. Current partnership taxation, registration requirements and later judicial treatment have not been checked.

LATER TREATMENT

Source checked 2026-10-10. Later treatment and current partnership-tax compliance have not been comprehensively checked; no present-law or citator clearance is represented.

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