

S. Sankappa and Others v. Income-tax Officer, Central Circle II, Bangalore

Civil Appeal No. 1664 of 1967 and connected proceedings (full list below)

[1968] 2 SCR 674 | 1967-12-14

Were firm and partner rectification proceedings part of assessment saved by section 297(2)(a), and did the revised firm assessments and previously untaxed partner shares satisfy the two conditions for section 35(5) rectification?

297(2)(a) | 155 (notice label; applicability conceded against Revenue)

Three judges | J.C. Shah, J. | V. Ramaswami, J. | V. Bhargava, J.

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

Historical saving and partner rectification with later contextual limits

Sankappa sustains section 35(5) of the 1922 Act through section 297(2)(a), not the section 155 label used in the notices. The firm assessments had actually been altered and both consequential-rectification conditions were satisfied; the partners' final tax amounts were not decided. J.K. Commercial later rejects an over-narrow use of Sankappa against section 23A rectification. Later section 155 wording has express assessment-year and limitation limits; this note does not certify their complete amendment history or present application. The headnote's section 35(4) is a source error for judicial section 35(5). Original PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

Six individuals were partners in the Lalitha Silk Throwing Factory, Srinivasa Textiles, or both. For assessment years 1958-59, 1959-60 and 1960-61, the two firms filed returns claiming registered-firm status and applications under section 26A of the 1922 Act. The Income-tax Officer refused registration and assessed the firms as unregistered. The partners' separate assessments included their shares only on the footing applicable to partners in unregistered firms (physical 3/SCR 676 D-H; physical 10-11/SCR 683 F-684 B).

The Appellate Assistant Commissioner allowed the registration appeals on 26 November 1966 for Lalitha Silk Throwing Factory and 14 December 1966 for Srinivasa Textiles. The Income-tax Officer then made orders on 20 December 1966 that recomputed the firms' tax as registered firms, allowed refunds and apportioned their income among the partners. On 19 January 1967 he issued three rectification notices to each of the six partners, nominally under section 155 of the 1961 Act. Eighteen writ petitions challenging those notices failed in the Mysore High Court; all eighteen certificate appeals were heard together in the Supreme Court (physical 3-4/SCR 676 B-677 C; physical 7/SCR 680 A-C).

Before the High Court the Revenue conceded that section 155 was unavailable for these old-Act assessments and that the applicable rectification provision was section 35(5) of the 1922 Act, through section 297(2)(a). The partners challenged that saving route and the statutory conditions for consequential rectification. No final partner rectification orders or tax amounts are adjudicated in this judgment (physical 4/SCR 677 C-H).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the argument that assessment meant only a fresh computation of income. Its meaning depends on the provision: in the section 297 setting it embraces the procedure for determining and imposing tax liability. Following *Abraham and Kalawati Devi Harlalka*, the Court held that correcting assessment errors under section 35(1) or section 35(5) forms part of assessment proceedings. Section 297(2)(a) therefore permitted the Income-tax Officer to proceed under the 1922 Act (physical 5-6/SCR 678 B-679 G).

M.M. Parikh did not compel a contrary result. That case concerned an additional super-tax order under section 23A, where liability arose from the officer's order rather than the ordinary statutory charge. Here the firm orders altered assessments made under the charging provisions, and the partner notices sought to correct computation and imposition of tax under those provisions. The Court's distinction was contextual; it did not declare that every order called an assessment, or every post-assessment proceeding, has the same statutory character (physical 6/SCR 679 A-G).

The first section 35(5) condition was also satisfied. The 20 December orders did more than mechanically recalculate tax: they reduced the firms' liability, directed refunds and allocated income to partners. Under the historical section 23(5) scheme, a registered firm's assessment included computation, its own tax liability and apportionment, with further firm-level taxation of some non-resident partners' shares where applicable. Section 23(6) required notice of apportionment to the firm; the section 30(1) proviso located the partners' challenge to apportionment in the firm's assessment appeal. Thus apportionment was part of assessing the firm, even though the partners' own assessments remained separate proceedings and could be handled by another officer (physical 7-9/SCR 680 A-682 E).

The Court distinguished *V.S. Arulanandam* on its facts. There the firm's unregistered assessment had remained intact after registration was granted, and the attempted partner rectification risked taxing the same income twice; lack of an opportunity to the partner was another ground of relief. Here the firm's old tax treatment had actually been altered and income apportioned, so information from an assessment of the firm supported section 35(5). A registration order alone was not treated as a substitute for that required assessment step (physical 9-10/SCR 682 E-683 F).

The second condition concerned a partner's share not included, or incorrectly included, in the individual assessment. Earlier inclusion was only for the section 14(2)(a) exemption and section 16(1)(a) rate calculation, not taxation of that share in the partner's hands. Once the firm's unregistered tax treatment was set aside, that earlier inclusion was no longer correct: section 23(5)(a)(ii) required the share to be taxed in the individual assessment. Rejecting rectification would leave the firm relieved of the tax while the partners' shares escaped it. Section 35(5) addressed that precise consequence (physical 10-11/SCR 683 F-684 E).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

The Supreme Court dismissed all eighteen appeals, Civil Appeals 1664-1681 of 1967, with costs and one hearing fee. The notices could lead to rectification under section 35(5) of the 1922 Act, saved by section 297(2)(a), on the basis of the firm rectifications under section 35(1). The Court sustained jurisdiction and the identified statutory conditions; it did not sustain section 155 as the governing power, calculate a new liability for any partner or pronounce on a later final rectification order (physical 6/SCR 679 E-G; physical 11/SCR 684 E).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the saving provision and jurisdiction to pursue consequential partner rectification

All eighteen assessee appeals dismissed with costs; one hearing fee

Reasoned 1961 Act transition holding and historical 1922 Act rectification conditions; final individual tax computations not before the Court

Firm registration, altered firm assessment and apportionment, and the partners' separate rectification proceedings are distinct steps. No blanket validation of a wrongly labelled notice or all present-day rectification powers.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Trace the full chain before invoking this decision: the statutory saving, the firm's altered assessment, the allocation of income and the defect in its treatment in the partner's assessment. Sankappa did not collapse the firm and partners into one assessment or authorise a second tax charge while the first remained intact. Its result depended on both section 35(5) conditions and on the actual change from unregistered to registered-firm taxation.

Later, CIT v. J.K. Commercial Corporation Ltd. (3 September 1976) explained that a narrow reading of Sankappa had misled the High Court. A section 23A order could itself be rectified under section 35(1), because it formed part of the assessment record; Parikh's section 34 limitation context was not to be imported into section 35(1). That is an explanation and contextual qualification, not an overruling of Sankappa. J.K. Commercial expressly concerned the 1922 Act only and mentioned the 1961 Act in passing (physical 6-7/SCR 517-518).

The statutory setting has also changed. In the retained government-hosted 2011 compilation, section 155(1) is expressly limited to partner assessments for assessment year 1992-93 or earlier; its footnote attributes the substituted opening to the Finance Act, 1992, effective 1 April 1993. The same compilation records later changes to the consequential-rectification limitation wording. These are bounded historical checks, not authentication of every amendment or present applicability. The judgment's broad use of assessment cannot replace verification of the applicable enactment, conditions, opportunity and limitation period; no automatic 2025 Act mapping is made (compilation physical 736-737/printed 1.695-1.696).

Source: See the proposition-specific paragraph and PDF-page references below.

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 1664 of 1967 / Civil Appeal No. 1665 of 1967 / Civil Appeal No. 1666 of 1967 / Civil Appeal No. 1667 of 1967 / Civil Appeal No. 1668 of 1967 / Civil Appeal No. 1669 of 1967 / Civil Appeal No. 1670 of 1967 / Civil Appeal No. 1671 of 1967 / Civil Appeal No. 1672 of 1967 / Civil Appeal No. 1673 of 1967 / Civil Appeal No. 1674 of 1967 / Civil Appeal No. 1675 of 1967 / Civil Appeal No. 1676 of 1967 / Civil Appeal No. 1677 of 1967 / Civil Appeal No. 1678 of 1967 / Civil Appeal No. 1679 of 1967 / Civil Appeal No. 1680 of 1967 / Civil Appeal No. 1681 of 1967

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 1664 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

2.

Case number: Civil Appeal No. 1665 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

3.

Case number: Civil Appeal No. 1666 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

4.

Case number: Civil Appeal No. 1667 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

5.

Case number: Civil Appeal No. 1668 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

6.

Case number: Civil Appeal No. 1669 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

7.

Case number: Civil Appeal No. 1670 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

8.

Case number: Civil Appeal No. 1671 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

9.

Case number: Civil Appeal No. 1672 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

10.

Case number: Civil Appeal No. 1673 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

11.

Case number: Civil Appeal No. 1674 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

12.

Case number: Civil Appeal No. 1675 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

13.

Case number: Civil Appeal No. 1676 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

14.

Case number: Civil Appeal No. 1677 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

15.

Case number: Civil Appeal No. 1678 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

16.

Case number: Civil Appeal No. 1679 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

17.

Case number: Civil Appeal No. 1680 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

18.

Case number: Civil Appeal No. 1681 of 1967

Outcome: Dismissed with costs; one hearing fee for the combined appeals

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, all eighteen appeals, years and original assessments

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: SCR 674 heading; 676 B-677 D

2.

Topic: Section 297(2)(a) saves rectification and assessment has contextual breadth

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 678 B-679 G

3.

Topic: Actual firm orders, statutory apportionment and separate partner proceedings

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: SCR 680 A-682 E

4.

Topic: Arulanandam distinction and first condition

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: SCR 682 E-683 F

5.

Topic: Second condition: taxable inclusion rather than exemption/rate inclusion

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: SCR 683 F-684 E

6.

Topic: All appeals dismissed, costs and one hearing fee

Source url: [Open cited source](#)

Pdf pages: 11

Paragraphs: SCR 684 E and closing disposition

7.

Topic: Headnote typo compared with judicial section 35(5)

Source url: [Open cited source](#)

Pdf pages: 2; 9

Paragraphs: SCR 675 F-G and 682 E

8.

Topic: J.K. Commercial explains Sankappa and limits Parikh inference

Source url: [Open cited source](#)

Pdf pages: 4; 6; 7

Paragraphs: SCR 515 A-B; 517 A-518 F

Source role: later judicial qualification

9.

Topic: Later section 155(1) assessment-year and limitation wording

Source url: [Open cited source](#)

Pdf pages: 736; 737

Paragraphs: Printed 1.695-1.696; section 155(1), footnotes 69 and 73

Source role: historical statutory change

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

The jurisdictional bridge is section 297(2)(a), while the actual rectification powers are sections 35(1) and 35(5) of the 1922 Act. The notices purported to invoke section 155 of the 1961 Act; that was not the legal basis sustained. The judgment is not a general present-day section 155 or section 154 ruling.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

V. Bhargava, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, section 297(2)(a): saving of rectification under the Indian Income-tax Act, 1922

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: 1977_1_512_518

Title: Commissioner of Income Tax, Kanpur v. J.K. Commercial Corporation Ltd.

Decision date: 1976-09-03

Classification: Express explanation and contextual qualification; not overruling

Source url: [Open cited source](#)

Pdf pages: 4; 6; 7

Pinpoint: SCR 515 A-B; 517-518

Holding limit: Rejects over-narrow reading of Sankappa and extension of Parikh's section 34 context to section 35(1). The later appeals are expressly 1922 Act only.

Bounded check: verified only within explicit read bounds

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, sections 35(1) and 35(5) (operative rectification powers); Indian Income-tax Act, 1922, sections 23(5), 23(6), 26A and second proviso to 30(1) (firm assessment, registration and apportionment); Indian Income-tax Act, 1922, sections 14(2)(a) and 16(1)(a) (prior exemption and rate inclusion); Indian Income-tax Act, 1922, sections 23A, 18A(1), 35(9)-(11) (Parikh comparison); Constitution of India, Article 226 (underlying writ proceedings)

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 11 PDF pages; SHA-256
7275b789c87fe12e0d62fb743b29379f5f86d578a2c6f1e46c28e6278cda0db6. Original bytes preserved.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; later treatment comprehensive: not_verified; current law status: not_verified; statutory mapping 2025: not_verified

The original heading prints 14 December 1967; 1968 is the report year. Catalogue identifier 1967INSC300 is not independently printed or authenticated in this rendition.

Decision date is 14 December 1967; report year is 1968. All eighteen appeals, not just the catalogue's first appeal, are covered. The catalogue typo AMD OTHERS is normalised to the image-verified AND OTHERS in public source titles.; The reporter headnote at physical 2/SCR 675 incorrectly prints section 35(4) for the first condition. The judicial text at physical 9/SCR 682 E correctly says section 35(5); the note follows the judicial text.; Section 155 was the original notice label, and the Revenue conceded it was unavailable. The sustained powers were old-Act sections 35(1)/(5), through section 297(2)(a).; Return-filing dates and final partner tax amounts are not stated. Do not infer applicability only from the assessment year or treat notices as completed rectifications.; The source discusses registration appeals, subsequent firm assessment/apportionment and partner rectification separately; the certificate appeals did not themselves grant registration.; Arulanandam is factually distinguished, including the unchanged firm assessment and hearing defect. No double taxation or dispensing with opportunity is sanctioned.; J.K. Commercial explains Sankappa rather than overruling it and confines Parikh's distinct context; its own 1961 comparison is expressly incidental.; The 2011 compilation supplies later statutory limits and editorial amendment history, not original 1967 wording, exhaustive amendments or current-law proof.

Three years for each of six partners. Both firms and the individual partners were assessed under the 1922 Act. Individual return-filing dates and original assessment dates are not supplied; the Court expressly applies section 297(2)(a). Eligibility rests on that actual transition holding, not on assessment years alone.

Eighteen certificate appeals from the Mysore High Court common judgment and order dated 30 and 31 August 1967 in Writ Petitions 354-371 of 1967. The source does not map each named partner or assessment year to an individual appeal number. The catalogue gives only the first appeal.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk. Complete amendments, commencement, savings and case-specific present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Bounded primary later-treatment check: J.K. Commercial Corporation, full seven-page text and images, expressly explains Sankappa and confines Parikh to its context. No comprehensive citator review or universal absence-of-adverse-treatment conclusion. Current law and 2025 mapping remain not_verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 11](#)

SHA-256: 7275b789c87fe12e0d62fb743b29379f5f86d578a2c6f1e46c28e6278cda0db6

[later reported judgment bounded - PDF pages: 7](#)

SHA-256: cfe0dc0b7315e5d4efcc68313eed77605349d615d7dc2f53a834afab017ad8

[official government hosted statutory compilation bounded - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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