

Kalva Suryanarayana v. Income-tax Officer, A-3 Ward, Hyderabad

Civil Appeal No. 998 of 1966

[1969] 1 SCR 840 | 1968-08-23

A former partner of a dissolved registered firm was not jointly and severally liable under section 44 for income tax individually assessed on other partners under section 23(5)(a).

Indian Income-tax Act, 1922: sections 23(5)(a), 26A, 33B, 44 and 45 | Constitution of India: Article 226

3-judge bench | J.C. Shah, J. | V. Ramaswami, J. | A.N. Grover, J.

Assessment years: 1951-52

Historical registered-firm recovery rule

The result turns on the 1922 Act's distinction between individual partner assessments and joint assessment of a discontinued firm's income.

01 FACTS OF THE CASE

Kalva Suryanarayana and three others formed a firm for a 1949-50 contract, after which the firm dissolved. For assessment year 1951-52 it was registered under section 26A, its income was computed and apportioned, and each partner was individually assessed. A section 33B revision increased the firm's computed income; consequential individual demands followed. Suryanarayana and one partner paid, but two did not. Six years later the Income-tax Officer issued a section 45 notice demanding their arrears from Suryanarayana on the theory that section 44 made every former partner jointly and severally liable. The Andhra Pradesh High Court dismissed his writ petition.

Source: [SCR pp. 841-842](#) / [PDF pp. 2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Under section 23(5)(a), a registered firm's income was computed but the tax was imposed individually on each partner after adding that share to the partner's other income and applying the rate appropriate to his total income. Section 44 addressed joint and several assessment of income of a discontinued firm or dissolved association; it did not convert one partner's individual section 23(5)(a) liability into every other partner's debt. Dissolution did not alter that distinction. Partnership-law joint liability for contractual obligations could not fill a gap in a taxing statute: income-tax liability was statutory and its incidence had to be found in the Act itself.

Source: [SCR pp. 842-844](#) / [PDF pp. 3-5](#)

03 JUDICIAL DECISION

The Supreme Court held that the Income-tax Officer lacked jurisdiction to recover the two other partners' individual taxes from the appellant. It quashed the 22 June 1961 notice and consequent proceedings, set aside the High Court judgment and allowed the appeal with costs in both courts.

Source: [SCR p. 844 / PDF p. 5](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee/former partner. He remained responsible for his own assessment but was not made liable by section 44 for the separate individual demands against the other partners.

Source: [SCR pp. 843-844 / PDF pp. 4-5](#)

05 AKHB REVIEW POINT

AKHB analysis: before pursuing one partner for another's tax, identify the precise taxable person, assessment form, demand and express recovery provision. Contractual joint liability under partnership law is not a substitute for statutory tax liability. For historical matters, distinguish tax assessed on the firm or discontinued business from tax individually assessed on each partner, then verify the assessment-year legislation and any later recovery provisions.

Source: [AKHB analysis based on SCR pp. 842-844 / PDF pp. 3-5](#)

SOURCE & VERIFICATION

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

Full 5-page SCR report read; editorial headnote on PDF page 1 distinguished from the judicial opinion on PDF pages 2-5.

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SCR cover and judicial caption verify 23 August 1968, Civil Appeal No. 998 of 1966 and the three-member bench; Ramaswami J. delivered the opinion.

STATUTORY SCOPE

The holding concerns the registered-firm machinery and discontinued-firm recovery provisions of the Indian Income-tax Act, 1922. It does not state the liability rule under later partnership-assessment or recovery statutes.

LATER TREATMENT

Source checked 2026-10-10. Later statutory changes and subsequent judicial treatment have not been comprehensively checked. No current-law clearance is asserted.

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