

Sahu Rajeshwar Nath v. Income-tax Officer

Civil Appeal No. 1768 of 1967

[1969] 1 SCR 999 | 1968-09-04

Historical recovery of an unregistered firm's tax from an admitted partner: no separate section 29 demand notice to that partner was required, and the Collector could use the civil-court execution powers incorporated by section 46(2).

Indian Income-tax Act, 1922: sections 2(2), 29 and 46(2) | Indian Partnership Act, 1932: section 25 | Code of Civil Procedure, 1908: Order XXI rule 50(2)

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

Assessment years: 1945-46

Admitted partnership was decisive

The appellant abandoned his challenge to partnership status for the relevant accounting year and conceded substantive liability for the firm's tax; the Court did not adjudicate a disputed-partner identity case.

Section 29 point was narrowly historical

The Court held that a partner whose liability arose under partnership law was not an 'other person liable to pay' under section 29 of the 1922 Act and therefore required no separate section 29 notice before this section 46(2) recovery.

Execution route mattered

Recovery was sustained through the Collector's incorporated civil-court powers and Order XXI rule 50(2), because the appellant admitted being a partner. The judgment does not erase procedural safeguards where partnership liability is disputed.

Historical statute only

The statutory language and unregistered-firm regime are those of the 1922 Act. Present recovery provisions, entity rules and notice requirements require independent verification.

Source-rendering interoperability

The exact catalogue PDF hash and seven-page count matched. Its malformed cross-reference structure prevented complete local Poppler rendering, but all seven pages were read in extracted text and visually inspected in Chrome's PDF viewer; the original bytes were not altered.

01 FACTS OF THE CASE

Sahu Rajeshwar Nath held a 12/53 share in the unregistered Regal Dehydrating Company, Meerut. The firm was assessed on 9 December 1952 on Rs.64,622 for assessment year 1945-46. The appellant claimed that he had transferred his share on 15 January 1945, received neither assessment notice nor a section 29 demand, and first learnt of recovery in September 1958. His writ petition and Letters Patent appeal failed. Before the Supreme Court he abandoned the partnership-status challenge, accepted that the relevant accounting year ended in October 1944 and confined the case to whether a separate demand notice was required and whether the Collector could execute the firm's tax certificate against him (SCR pp.1000-1002; PDF pp.2-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 29's phrase 'other person liable to pay' meant a person made liable by the Income-tax Act itself; it did not extend to a partner whose joint and several liability arose under section 25 of the Partnership Act. A separate section 29 notice to the partner was therefore unnecessary before section 46(2) recovery (SCR pp.1002-1003; PDF pp.4-5). The section 46(2) proviso conferred the powers that a civil court had to recover a decree. Applied mutatis mutandis, Order XXI rule 50(2) permitted execution against a person claimed to be a partner where liability was not disputed. Because the appellant admitted his partnership during the relevant year and the firm's return also named him, the Collector could execute the certificate against him. The Court approved two Calcutta decisions and rejected contrary Mysore and Allahabad views (SCR pp.1003-1005; PDF pp.5-7).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court held that no separate section 29 demand notice was required for this partner and that the Collector could lawfully recover the unregistered firm's tax arrears from him under section 46(2) using Order XXI rule 50(2). The appeal was dismissed with costs (SCR p.1005; PDF p.7).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Income-tax Officer/Revenue respondents. The appellant was denied mandamus and the recovery proceedings remained valid (SCR pp.1004-1005; PDF pp.6-7).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: before seeking recovery from a partner, separate the source of substantive liability from the statutory demand and execution machinery. Record whether partnership status for the liability period is admitted; a disputed identity can trigger different safeguards. Do not transpose this 1922 Act holding to present recovery law without checking the current statute, firm-registration regime and notice rules (based on SCR pp.1002-1005; PDF pp.4-7).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 7-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 7-page count match catalogue asset 1969_1_999_1005; every page was reviewed.

The source verifies Civil Appeal No. 1768 of 1967, 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 decision applies the recovery machinery of the repealed Indian Income-tax Act, 1922 to an unregistered firm's 1945-46 liability, together with the Partnership Act and the then-applicable Civil Procedure Code execution rule. It does not establish the notice or partner-recovery position under later income-tax legislation. No current-law or 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.

AI DISCLOSURE

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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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.