

Commissioner of Income-tax, Andhra Pradesh, Hyderabad v. A. Dharma Reddy, Morthad

Civil Appeal No. 1057 of 1966

[1969] 3 SCR 782 | 1969-02-19

Historical partner loss set-off: after the 1955 amendment to section 24(2)(ii), an individual partner continued the same bidi-leaf business despite dissolution of the loss-making firm and pursuit of the activity through a differently constituted firm.

Indian Income-tax Act, 1922: sections 2(4), 16(1)(b), 23(5) and 24(2)(ii) | Finance Act, 1955: section 16

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

Assessment years: 1955-56, 1956-57

Individual partner's loss only

The carried-forward set-off was available to the individual partner who suffered the loss, not to the new firm or its other partners.

Business identity was activity-based

The Court found continuity because the assessee himself maintained the systematic bidi-leaf activity. A superficial similarity of trade label would not substitute for proof that the same individual continued the relevant business.

Historic amended wording

The decision emphasised the change made by the Finance Act, 1955. It should not be abstracted from that wording or projected onto later statutes without checking their text and conditions.

Source boundary

The seven-page PDF begins with this case's headnote and ends with its dismissal order; no adjacent-report text was treated as part of the judgment.

01 FACTS OF THE CASE

The individual assessee derived income as a partner in several firms, including two separate firms dealing or contracting in bidi leaves. His two-partner firm, A. Dharma Reddy, Morthad, sustained a Rs.30,255 loss in AY 1955-56 and dissolved on 31 March 1955; after other set-offs, Rs.24,532 remained. A four-partner firm, A. Dharma Reddy & Co., Ditchpally, continued bidi-leaf business in AY 1956-57 and produced an estimated Rs.11,853 share of profit for him. Although the two firms filed separately, were assessed separately and had no succession relationship, the assessee claimed his personal unabsorbed share against his later business income. The Income-tax Officer and first appellate authority refused; the Tribunal and Andhra Pradesh High Court allowed the claim (SCR pp.783-785; PDF pp.2-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The amended section 24(2)(ii) required that the business in which the individual suffered the loss continue to be carried on by him; it did not require the identical partnership concern to persist. Dissolution of the first firm therefore did not end the assessee's bidi-leaf business while he continued the same systematic and organised activity in partnership with others. The statutory definition of business focused on continuing trade or commercial activity, not the constitution of the partnership through which it was conducted (SCR pp.785-787; PDF pp.4-6). Under sections 16(1)(b) and 23(5), a registered firm's profits were apportioned and partners were assessed; the carried-forward loss belonged only to the partner who incurred it. The Court relied on analogous authorities permitting continuity through a changed mode of carrying on the same business (SCR pp.787-788; PDF pp.6-7).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court upheld the High Court's conclusion that the assessee continued the business in which he had sustained the earlier loss and was entitled to the claimed set-off under section 24(2)(ii). Revenue's appeal was dismissed with costs (SCR p.788; PDF p.7).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of A. Dharma Reddy/the assessee. His carried-forward share of the dissolved firm's loss remained available against his later share of income from the continued bidi-leaf business; the relief did not extend to the new firm or its other partners (SCR pp.787-788; PDF pp.6-7).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: for a partner-level loss under this historical regime, trace the loss to the individual, identify the commercial activity rather than only the firm's legal shell, and prove that the same individual continued that activity in the set-off year. Then verify the exact statute-year language: this result turned expressly on the post-1955 wording and should not be assumed under a later loss rule (based on SCR pp.785-788; 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_3_782_788; every page was reviewed.

The source verifies Civil Appeal No. 1057 of 1966, 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 ruling construes section 24(2)(ii) of the repealed Indian Income-tax Act, 1922 as amended by the Finance Act, 1955, together with the then taxation of registered-firm partners. It is not a ruling on current partnership or loss carry-forward provisions, and no later-treatment or current-law 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.

PROFESSIONAL DISCLAIMER

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.