

Jain Bros. and Others v. Union of India and Others

Civil Appeal No. 1593 of 1969

[1970] 3 SCR 253 | 1969-11-18

Were the post-1956 registered-firm/partner tax provisions invalid for double taxation, and did the 1961 Act validly use assessment completion on or after 1 April 1962 to select its penalty regime and treat a defaulting registered firm as unregistered for penalty computation?

297(1) | 297(2)(a) | 297(2)(b) | 297(2)(f) | 297(2)(g) | 271(1)(a) | 271(1)(i) (historical penalty measure) | 271(2) | 274(1) | 275 | 297(2)(j) (analogy) | 182 and 183 (historical comparison) | 276 (historical prosecution comparison)

Five judges (Constitution Bench) | M. Hidayatullah, C.J. | J.M. Shelat, J. | C.A. Vaidialingam, J. | A.N. Grover, J. | A.N. Ray, J.

Assessment years: 1960-61

Historical penalty transition, distinct criminal limits and later qualifications

Jain Bros. upholds the section 297(2)(g) transition and historical section 271(2) registered-firm penalty rule; its assessment-completion trigger is not a universal rule for every penalty's quantum. The separate statutory penalty appeal's later result is not supplied. Tiwari preserves old criminal-offence/punishment limits; Maya Rani's late-return result is bounded by its continuing-default wording and old-maximum concession; Varkey separates authority from concealment-penalty measure; Ganesh rejects treating compensatory interest as penal on Jain Bros. alone. Later statutory amendments and savings require separate verification. The reporter's writ chronology, 1961 cutoff and section 275(1) hearing reference contain disclosed inconsistencies. Original PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

Jain Bros., a Delhi business registered under section 26A of the 1922 Act, and its four partners challenged the statutory basis of a late-return penalty. A section 22(2) notice was served on the firm on 26 May 1960 for assessment year 1960-61, with 35 days to file. After two further notices, a return was filed on 18 November 1961 showing Rs. 3,55,566. The accounting year had ended on 31 October 1959 (physical 3/SCR 255 A-C).

On 23 November 1964 the Income-tax Officer assessed total income at Rs. 4,75,368. Under section 23(5), as amended by the Finance Act, 1956, he determined the firm's tax and the amounts includible in the partners' incomes. On the same date he gave notice under sections 271 and 274 of the 1961 Act concerning the late return. After considering the explanation, he imposed Rs. 1,03,434 under section 271(1)(a) by an order dated 19 November 1966. The appellants pursued a penalty appeal before the Appellate Assistant Commissioner and also a constitutional writ challenge (physical 3/SCR 255 C-F).

The report states that the writ was filed on 26 August 1966 while describing the penalty appeal as already pending after the November 1966 penalty order; its appellate recital identifies Civil Writ No. 1247 of 1967. That chronology is inconsistent and is not silently repaired here. The Delhi High Court dismissed the writ on 25 February 1969. In the single certificate appeal, the firm and partners attacked old section 23(5), the assessment-completion cutoff in section 297(2)(g), and section 271(2)'s registered-firm penalty computation (physical 2-3/SCR 254 G-255 H).

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

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court first allowed the challenge to section 23(5) to be examined. Unlike the High Court, it did not treat delay in challenging the 1964 assessment as conclusive against that legal question: the assessment supplied the basis for determining a penalty still open to challenge (physical 3-4/SCR 255 G-256 A).

On the merits, the post-1956 statute expressly treated the firm and its partners as distinct taxable entities. A registered firm became liable at reduced rates, while each partner's share entered that partner's total income, with the statutory rebate then available. Murlidhar Jhawar concerned an unregistered firm and an earlier accounting period, lacking the express post-1956 registered-firm provision. The Court distinguished it rather than abandoning the need to identify the governing statute. A general interpretive presumption against taxing the same income twice cannot defeat clear legislation; the Constitution contains no general prohibition on double taxation. Charging and machinery provisions had to be read harmoniously to give effect to that express scheme (physical 4-6/SCR 256 B-258 H).

The section 297 challenge concerned two different transition triggers. Clauses (a) and (b) use return-filing time for assessment procedure; clauses (f) and (g) use completion of assessment for penalty. For an assessment for the year ending 31 March 1962 or an earlier year completed on or after 1 April 1962, clause (g) directs initiation and imposition of penalty under the 1961 Act. The Court rejected the claim that different triggers were necessarily irrational. Penalty, although described as additional tax for some purposes, was not simply a continuation of assessment proceedings where a return had been filed (physical 7-11/SCR 259-263).

The Court considered the actual historical changes in the penalty regimes rather than describing the new law as uniformly more onerous. It noted the changed relationship with prosecution, removal of the former prior-approval requirement in the compared setting, prescribed minimum penalty, a reduced maximum for this late-return default, and a limitation period for imposing penalty. The chosen date was the commencement of the new Act, not a date unconnected with the legislative change. Assessment completion supplied the assessed tax needed to quantify this penalty, and the statutory scheme contemplated an imposition order after completion (physical 8-11/SCR 260-263).

Pending cases could form a legislative class, and fiscal legislation allowed a broad but not unlimited classification discretion. The 1 April 1962 cutoff and stage selected had a reasonable connection with implementing the transition and preventing tax evasion. Mere possibility that an officer might deliberately delay assessment did not invalidate the provision: mala fide action in an individual case remained open to challenge in appropriate proceedings. Jalan Trading's unrelated retrospective bonus-date classification supplied no controlling parallel (physical 10-12/SCR 262-264 A).

Section 271(1)(a)'s reference to notices under the 1961 Act did not exclude a default under old section 22(2) where section 297(2)(g) governed. Reading the provisions together, section

02 DISCUSSION BY THE HON'BLE COURT

271 applied with the adaptations needed for the saved transition case. The Court used Damodar Bhat's treatment of recovery under section 297(2)(j) as an analogy. This was a rule for the specified transition class, not a general power to apply any later penalty provision retrospectively (physical 12/SCR 264 B-F).

Finally, section 271(2) validly measured the defaulting registered firm's penalty as though it were unregistered. Registration conferred reduced tax rates and related benefits; the legislature could withhold that benefit for penalty computation upon default. The fact that this could produce a penalty greater than 50% of the registered firm's own reduced tax did not establish prohibited discrimination. This did not convert the firm's ordinary assessment into an unregistered-firm assessment for every purpose (physical 12-13/SCR 264 F-265 D).

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

03 JUDICIAL DECISION

The Constitution Bench dismissed Civil Appeal No. 1593 of 1969 with costs. It rejected the double-taxation attack on the express post-1956 firm/partner scheme, upheld section 297(2)(g) against Article 14 and applied section 271 to the old section 22(2) default within that transition clause, and upheld the section 271(2) registered-firm computation rule. The judgment records a separate statutory penalty appeal as pending and does not supply its later outcome or independently recalculate the Rs. 1,03,434 penalty (physical 13/SCR 265 B-D; physical 3/SCR 255 E-F).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Union of India and Revenue on the constitutional and statutory challenges

Single certificate appeal by the firm and four partners dismissed with costs

Constitutional/statutory penalty-transition and registered-firm issues decided; not a criminal prosecution, interest assessment or later disposal of the statutory penalty appeal

No general ban on all double taxation; no unlimited approval of retrospective penalties; no criminal conviction, fine or Article 20 holding in this judgment.

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

05 AKHB REVIEW POINT

Apply the completion-date rule only after identifying section 297(2)(g) and its old-year transition class. Do not turn it into a rule that every penalty's quantum follows the law on the assessment date. Similarly, an express registered-firm penalty fiction does not determine whether a separate interest charge is penal or compensatory.

The bounded later primary check exposes these limits. Tiwari Kanhaiyalal (13 March 1975) followed Jain Bros. for the new-Act civil penalty route but kept an alleged pre-repeal false declaration within old section 52 and the constitutional limit on greater criminal punishment (physical 3-6/SCR 929-932). Maya Rani Punj (11 December 1985) applied Jain Bros. to late-return penalty, rejected its Article 20 argument on the accepted premise that the imposed amount did not exceed what the old law permitted, and treated non-filing under the historical monthly-penalty wording as a continuing default. Its result is not a universal retrospective-penalty licence (physical 8-11 and 14-16/SCR 834-837 and 840-842).

Varkey Chacko (24 August 1993), addressing concealment, expressly separated who had authority to impose penalty from the permissible measure: the authority followed the relevant initiation/jurisdiction setting, while the measure was that permissible when the offending return was filed. This reconciled the Jain Bros. line with Brij Mohan and Onkar Saran; it did not overrule Jain Bros. or equate completed concealment with continuing non-filing (physical 6-8/SCR 805-807). Ganesh Dass Sreeram (30 October 1987) separately rejected reliance on Jain Bros. to characterise section 139 interest as penal: that question was not decided in Jain Bros., and the interest before the later Court was compensatory (physical 8/SCR 696 A-C).

The exact historical provisions have changed. The government-hosted 2011 compilation records omission of section 271(1)(a) and clause (i) with effect from 1 April 1989, earlier substitutions of clause (i), including a 1974 amendment with retrospective effect from 1 April 1962, and section 271(5)'s express preservation of pre-1989 provisions for AY 1988-89 and earlier. It also retains the historical section 271(2) text and records the later omission of section 183; it must not be presented as evidence that every old registered-firm provision was simply deleted together. These selected texts and editorial footnotes are not a complete amendment history or current-law/2025 mapping certificate (compilation physical 951-952 and 957).

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 1593 of 1969

Outcome: Dismissed with costs as to all five appellants

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, all appellants, AY, return, assessment and penalty

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: SCR 253 heading; 254 G-255 F

2.

Topic: Assessment-basis challenge and express registered-firm/partner taxation

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6

Paragraphs: SCR 255 G-258 H

3.

Topic: Penalty saving, historical comparison, Article 14 and completion-date rationale

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10; 11; 12

Paragraphs: SCR 259-264 A

4.

Topic: Section 271 adapted to old default within section 297(2)(g)

Source url: [Open cited source](#)

Pdf pages: 12

Paragraphs: SCR 264 B-F

5.

Topic: Registered-firm penalty fiction and dismissal with costs

Source url: [Open cited source](#)

Pdf pages: 12; 13

Paragraphs: SCR 264 F-265 D

6.

Topic: Chronology and section/date printing anomalies

Source url: [Open cited source](#)

Pdf pages: 3; 8; 11

Paragraphs: SCR 255 E-F; 260 A/H; 263 D-E

7.

Topic: Tiwari: new civil penalty does not change saved offence or punishment limit

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6

Paragraphs: SCR 929-932

Source role: later judicial qualification

8.

Topic: Maya: transition, old-law ceiling concession and continuing non-filing

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11; 14; 15; 16

Paragraphs: SCR 834-837; 840-842

Source role: later judicial treatment

9.

Topic: Varkey: authority and penalty measure are distinct

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: SCR 805-807

Source role: later judicial qualification

10.

Topic: Ganesh: Jain Bros. did not decide compensatory-interest character

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: SCR 696 A-C

Source role: later judicial qualification

11.

Topic: Historical omissions, retrospective clause (i) change and section 271(5) saving

Source url: [Open cited source](#)

Pdf pages: 951; 952; 957

Paragraphs: Printed 1.910-1.911 and 1.916; footnotes 84, 92 and 31

Source role: historical statutory change

12.

Topic: Compiled section 297 savings scheme

Source url: [Open cited source](#)

Pdf pages: 1004; 1005; 1006

Paragraphs: Printed 1.963-1.965

Source role: historical statutory context

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

The operative 1961 questions are constitutionality and application of the penalty saving and registered-firm penalty rule. Assessment of the firm and partners arose under the 1922 Act as amended in 1956. The references to sections 182/183 and prosecution rules are contextual; this is not a prosecution or interest judgment.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A.N. Grover, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, sections 297(2)(g) and 271; Indian Income-tax Act, 1922, section 23(5) as amended by the Finance Act, 1956

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: 1975_3_927_932

Title: Tiwari Kanhaiyalal etc. v. Commissioner of Income Tax, Delhi

Decision date: 1975-03-13

Classification: Followed for civil penalty; criminal-liability qualification

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6

Pinpoint: SCR 929-932

Holding limit: New section 271 penalties do not convert pre-repeal conduct into a new section 277 offence or authorise greater criminal punishment.

Bounded check: verified only within explicit read bounds

2.

Asset id: S 1985 3 827 842

Title: Maya Rani Punj v. Commissioner of Income Tax, Delhi

Decision date: 1985-12-11

Classification: Followed in late-return transition and continuing-default analysis

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11; 14; 15; 16

Pinpoint: SCR 834-837; 840-842

Holding limit: Article 20 argument rejected with the accepted premise that the amount was within the old-law maximum; monthly statutory default reasoning is not a universal rule.

Bounded check: verified only within explicit read bounds

3.

Asset id: S 1993 1 800 807

Title: Varkey Chacko v. Commissioner of Income Tax

Decision date: 1993-08-24

Classification: Reconciled through authority-versus-measure distinction

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Pinpoint: SCR 805-807

Holding limit: Concealment-penalty authority and quantum must be distinguished; the offending-return law determines the permissible measure.

Bounded check: verified only within explicit read bounds

4.

Asset id: 1988_1_689_699

Title: Ganesh Dass Sreeram etc. v. Income Tax Officer, A Ward, Shillong and Others etc.

Decision date: 1987-10-30

Classification: Distinguished; interest-character extrapolation rejected

Source url: [Open cited source](#)

Pdf pages: 8

Pinpoint: SCR 696 A-C

Holding limit: Jain Bros. did not decide whether section 139 interest was penal; the later interest was compensatory, without overruling the penalty decision.

Bounded check: verified only within explicit read bounds

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, sections 2(2), 3, 14(2)(aa), 22(2), 23(5), 26A and 28; Finance Act, 1956, section 14 (registered-firm assessment amendment); General Clauses Act, 1897, sections 3(42) and 6; Constitution of India, Articles 14, 226 and 227

SOURCE & VERIFICATION

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

Identified source rendition: 13 PDF pages; SHA-256

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[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

Decision dated 18 November 1969; 1970 is the report year. Catalogue identifier 1969INSC325 is not independently printed or authenticated in this rendition.

Decision year 1969 differs from report year 1970. One appeal covers the firm and four partners; one Court opinion, no separate concurrences or dissents.; The body at physical 3/SCR 255 dates the penalty order 19 November 1966 but describes its appeal as pending when a writ was filed on 26 August 1966; the appellate recital identifies Civil Writ 1247 of 1967. Chronology is inconsistent and no replacement date is invented.; At physical 8/SCR 260 A, the account of the appellants' argument prints first April 1961. The statutory quotation and judicial holding consistently use 1 April 1962 as the operative cutoff.; Physical 8/SCR 260 H prints section 275(1) for the hearing safeguard; physical 11/SCR 263 D-E correctly refers to sections 274(1) and 275. The note does not repeat the former as a correct section reference.; The judgment concerns a late-return civil penalty and Article 14. It is not an Article 20 adjudication, a prosecution conviction, an interest case or a universal penalty-law timing rule.; Varkey Chacko supplies the authority/quantum distinction for concealment; Ganesh Dass separately concerns compensatory interest. Its M. Nagappa reference is unrelated Karnataka litigation, not C.R. Nagappa's trust case.; Maya Rani's source contains section-number slips, a printed 1/2 expression in the old-maximum concession and an erroneous Venkataramiah running header at SCR 841. The relied reasoning is the accepted availability of an old-law penalty above Rs. 4,060 and the single judgment's continuing-default analysis, not those slips or an inferred separate opinion.; The 2011 compilation records later penalty changes and savings, using editorial footnotes for amendment history; no original Gazette, exhaustive amendment, current-law or 2025 certificate.

Accounting year ended 31 October 1959. Return filed 18 November 1961, assessment completed 23 November 1964, and penalty order dated 19 November 1966. Applicability of the 1961 penalty provisions follows the section 297(2)(g) completion-date rule, not the assessment year alone.

One certificate appeal from the Delhi High Court judgment of 25 February 1969 in Civil Writ No. 1247 of 1967. Appellant 1 was the registered firm; appellants 2-5 were its four partners. The source's body gives an inconsistent 26 August 1966 writ-filing date, expressly disclosed without correction.

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 checks: Tiwari and Maya Rani apply Jain Bros. within their distinct civil-penalty and criminal-liability settings; Varkey distinguishes authority from concealment-penalty measure; Ganesh Dass rejects extending Jain Bros. to characterise compensatory interest. No exhaustive later-treatment or no-overruling conclusion. Current law and 2025 mapping remain not_verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 13](#)

SHA-256: ffa8744350c3950f408311f816535d6b31ad9ab3cbc2ab66ce2dc7fa471d115a

[later reported judgment bounded - PDF pages: 6](#)

SHA-256: 5d6560e2f17145d29e3cfdffc1661fd8b60ac560672977b088e05b31867a1f56

[later reported judgment bounded - PDF pages: 16](#)

SHA-256: 588053eaa2102d7ab3a09a4791e93cd4824f00962d0c2a6e52708397c03e6baa

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SHA-256: 6cd58d8d711b88613c7a5c889357d70c747f081416aa999984116ed1a9b85faf

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