

N. V. Shanmugham and Co. v. Commissioner of Income-tax, Madras

Civil Appeal Nos. 294 and 295 of 1967 — Assessee certificate appeals in two assessment years and connected proceedings (full list below)

[1971] 1 SCR 340 | 1970-04-23

The owners who acquiesced in a jointly managed business earned its profits as an association of persons; the court-appointed receivers were their representatives, not themselves the taxable association.

1922 Act: 3 | 1922 Act: 10 | 1922 Act: 41(1) | 1922 Act: 66(1) | 1922 Act: 66A(2)

3 Judges | J. C. Shah | K. S. Hegde | A. N. Grover

01 FACTS OF THE CASE

A snuff-manufacturing partnership entered dissolution proceedings. After a short stoppage, the civil court appointed two former partners and an advocate as receivers to reopen the business for winding up, realise debts and discharge liabilities. Profits were divisible under the partnership deed, while specified monthly amounts were payable to the owners. The business earned ₹93,739 and ₹1,54,393 in the two assessment years. The receivers disclosed the profits but filed nil returns, contending that each beneficiary should be assessed separately at the applicable individual rate. The officer and appellate commissioner disagreed; the Tribunal accepted separate assessment. The High Court answered the Revenue's reference in its favour.

Source: [SCR 341-343: receivership terms, profits and reference route.](#)

02 DISCUSSION BY THE HON'BLE COURT

Hegde J first corrected the question's premise. Three receivers did not become an association merely because they served jointly. Sections 3 and 10 supplied the business-income charge and computation; section 41 allowed assessment and recovery from representatives in the same manner and amount as from those represented, without creating another charge. The real issue was the status in which the owners earned the profits. Control and management were unified, and the receivers acted jointly for all owners rather than separately for each interest. Defined profit shares did not alter the unit earning the income. Applying Indira Balkrishna and related authorities, the Court examined common purpose and conduct. Although one partner had opposed continuation of the partnership, every owner accepted monthly proceeds. The Court inferred acquiescence in continuing the business. Equity did not determine tax liability, but conduct was relevant to identifying who carried on the business.

Source: [SCR 343-345 and physical 7: charge versus representation, unified activity and acquiescence.](#)

03 JUDICIAL DECISION

The profits were earned by a business carried on by an association of persons comprising the owners through their representatives. The appeals were dismissed. Because consent was found, the Court expressly declined to decide what would follow if the business had continued without all owners' consent. Its borrowing of the 1961 expression "representative assessee" did not amount to adjudication under that Act.

Source: [SCR 345-347: owners' conduct and express non-consent reservation.](#)

04 OUTCOME / IN WHOSE FAVOUR

Both appeals dismissed with costs, one hearing fee. The business profits were assessable on the owners' association basis through the receivers. Owners' association status decided on unified management and acquiescence; non-consent case left open.

Source: [SCR 347F: association answer and dismissal with costs.](#)

05 AKHB REVIEW POINT

Separate the person managing income from the unit earning it. Court appointment, fixed shares and receivers' number are not stand-alone answers. Establish the owners' actual conduct and the representative-liability provision, then check any modern statutory qualifications before applying the old reasoning to another receivership.

Source: [SCR 343,345,347A: representative distinction, conduct and open question.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 294 and 295 of 1967 — Assessee certificate appeals in two assessment years / Tax Case No. 215 of 1962; Reference No. 120 of 1962 — Originating High Court proceedings; not additional Supreme Court appeals

SOURCE & VERIFICATION

Original reported Supreme Court judgment

8-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All eight text/image pages SCR340-347, physical7 folio printed345 rather than expected346; use physical pin. Headnotephysical1-2, Hegde opinionphysical2-8; no adjacentcase. Title Shanmugham; body Shanmugam variation. Appeals294/295of1967 and HC TaxCase215/1962 Ref120/1962. Receiver number does not create AOP; owners acquiesced, no-consent case expressly undecided.

Open cited source rendition

Caption spells Shanmugham; opening opinion uses Shanmugam.

Physical 7 visibly repeats folio 345 instead of expected 346; physical-page pinpoints avoid ambiguity.

Body names one partner Murugavel Nagar before later Nadar; the note does not silently resolve that spelling.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 3, 10, 41(1), 66(1), 66A(2)

Section 160(1)(iii) identifies court-appointed receivers and managers; section 161(1) provides representative assessment. The business-income rule in section 161(1A) expressly addresses the trust category in section 160(1)(iv), not automatically every receiver.

Sections 303(1)(c) and 304 address receiver representation and liability in like manner and extent, subject to their terms. Their structure is not a complete reproduction of section 161; no present AOP status or tax rate is determined.

The operative historical law governs this holding. The 2025 Act generally commences on 1 April 2026; the selected section 536 savings preserve earlier operations, rights and specified proceedings for earlier tax years. Only stated passages and versions were read. No complete savings, amendment-history or present-case applicability assessment is claimed.

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted; this is not a finding that later treatment is absent.

Comprehensive subsequent history and present-law applicability remain unverified.

Primary authorities cited within this judgment are not later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act,2025: commencement and selected savings](#)

As amended by Finance Act,2026 1(1)-(3),web0-13;536(1),(2)intro/(a)-(e),24385-24408 and(3)-(4),24597-24601;not whole536. Exact stated retained text read personally. No raw statutory PDF/HTML or page-image reading, whole-Act review or automatic present-case applicability is asserted.

[Income-tax Act,1961: representative assessee](#)

Displayed2025 Complete160(1)withExplanations1-2,and(2),web63-82. Exact stated retained text read personally. No raw statutory PDF/HTML or page-image reading, whole-Act review or automatic present-case applicability is asserted.

[Income-tax Act,1961: representative liability](#)

Displayed2025 Complete161(1),(1A)andproviso,(2),web63-68. Exact stated retained text read personally. No raw statutory PDF/HTML or page-image reading, whole-Act review or automatic present-case applicability is asserted.

[Income-tax Act,2025: representatives and liability](#)

As amended by Finance Act,2026 Complete303(1)-(4),16391-16427;304(1)-(5),16428-16456. Exact stated retained text read personally. No raw statutory PDF/HTML or page-image reading, whole-Act review or automatic present-case applicability is asserted.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. It is not legal or tax advice. Verify the original judgment, applicable statutory version and subsequent judicial treatment before relying on it. The AKHB Review Point is editorial analysis, not part of the Court's judgment.