

Khanjan Lal Sewak Ram v. Commissioner of Income-tax, U.P.

Civil Appeal No. 1947 of 1968

[1972] 1 SCR 502 | 1971-08-31

Firm-registration renewal: a certificate covering only book profits is insufficient when actual divisible profits remain undistributed.

Indian Income-tax Act, 1922: sections 26A and 66(1) | Income-tax Rules, 1922: paragraph 3 of rule 6 and rule 6A

2-judge bench | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: 1948-49

Historical statutory scope

The ruling concerns historical firm-registration requirements under the repealed 1922 Act. It does not establish that every assessment addition or disallowed expense invalidates firm status under present law.

01 FACTS OF THE CASE

The firm, registered for AY 1947-48, applied for renewal for AY 1948-49 and certified that the previous year's profits had been divided or credited. After disputes between two groups of partners, evidence disclosed profits outside the books. The Tribunal found both that the recorded profits had been distributed according to the partnership deed and that substantial unrecorded profits had not been so distributed. The High Court upheld refusal of renewal. The Supreme Court reference concerned the legal effect of those binding factual findings, not their evidentiary correctness.

Source: [SCR pp. 503-505 / PDF pp. 2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 26A and the prescribed rules required a compliant renewal application, including a truthful rule 6 certificate about division or credit of divisible profits. The certificate had a substantive purpose under the then tax treatment of registered firms and their partners. Distribution of book profits alone did not satisfy it when other profits actually earned remained undistributed. The Court distinguished decisions about partner salary, interest and reserve accounts; those situations did not involve the same undistributed-profits finding. It expressly rejected the suggestion that mere rejection of a return figure or allowance would itself justify refusal.

Source: [SCR pp. 506-509 / PDF pp. 5-8](#)

03 JUDICIAL DECISION

The appeal was dismissed with costs. The Income-tax Officer was justified in refusing renewal because the application did not comply with paragraph 3 of rule 6. Whether the partners had effectively withdrawn the renewal application was expressly outside the question before the Court.

Source: [SCR pp. 505, 507 and 509 / PDF pp. 4, 6 and 8](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue succeeded on the particular renewal dispute. The controlling fact was non-distribution of actual divisible profits, rather than merely a difference between returned and assessed income. No ruling was made on withdrawal of the application.

Source: [SCR pp. 505 and 509 / PDF pp. 4 and 8](#)

05 AKHB REVIEW POINT

AKHB analysis: reconcile profit-allocation certificates with the deed, partner accounts and evidence of all actual business receipts. Separate disputes about deductibility or accounting presentation from proof that divisible profits were withheld from partners. For historical references, identify the factual findings already fixed by the referred question. Present partnership taxation requires the applicable statutory version and cannot be inferred from this former registration regime.

Source: [AKHB analysis based on SCR pp. 505-509 / PDF pp. 4-8](#)

SOURCE & VERIFICATION

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The opening cover was visually checked to resolve noisy OCR: the second judge is A. N. Grover, J.; the title is Khanjan Lal Sewak Ram.

STATUTORY SCOPE

The ruling concerns historical firm-registration requirements under the repealed 1922 Act. It does not establish that every assessment addition or disallowed expense invalidates firm status under present law.

LATER TREATMENT

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