

MANDYALA GOVINDU & CO. v. COMMISSIONER OF INCOME TAX, ANDHRA PRADESH

Civil Appeal No. 63 of 1971; Originating High Court proceedings: R.C. No. 50 of 1966
[1976] 2 SCR 131 | 1975-10-06

Registration failed because the adult partners' loss shares, including responsibility for the minor's excluded share, could not be ascertained. The Court expressly left open whether section 26A invariably required an express loss-sharing clause in the deed.

3-judge bench | V.R. Krishna Iyer, J. | A.C. Gupta, J. | S. Murtaza Fazal Ali, J.

Express-loss-clause question left open

The Supreme Court did not decide that section 26A always required an express loss clause. The decisive defect was inability to ascertain how the adults bore all losses after excluding the minor.
Operative context: Indian Income-tax Act, 1922; 26A, 23(5), 66(1).

01 FACTS OF THE CASE

A January 1959 partnership deed allocated profits of 31%, 23% and 23% to three adult partners and 23% to a minor admitted to its benefits. It did not state how losses were shared. Clause 9 generally required compliance with the Partnership Act. The registration application remained pending until the 1961-62 assessment.

The High Court held that section 26A required the instrument to specify both profit and loss shares. The firm argued that express loss provisions were unnecessary if the shares were otherwise ascertainable, and alternatively that the reference to the Partnership Act supplied the missing allocation.

Source: [SCR132G-133C](#)

02 DISCUSSION BY THE HON'BLE COURT

Registration was a statutory benefit, not a prerequisite to a firm carrying on business. Section 23(5) explained why ascertainable loss shares mattered: a registered firm's loss could affect the partners' individual assessments. The prescribed application also requested apportionment details, although compliance with that form was not the issue considered in this case.

The Court recognised conflicting High Court views about whether the deed itself must expressly specify losses. It declined to resolve that conflict because the firm failed even on the more favourable view. Before registration, the officer had to be able to ascertain the partners' loss shares.

Clause 9 did not supply them. Section 13(b) of the Partnership Act could not produce equal loss sharing where profit shares were unequal. Although unequal profit sharing normally supports an inference of corresponding loss proportions absent contrary agreement, that inference did not solve this deed's problem. The minor was admitted only to benefits. Applying the adults' individual profit percentages still left the minor's 23% of loss undistributed, without indicating whether the adults absorbed it equally or in some other proportion. The Court would not invent that missing bargain.

Source: [SCR133D-137B, especially135E-F](#)

03 JUDICIAL DECISION

The firm's appeal was dismissed with costs. Refusal of registration for 1961-62 stood because loss allocation could not be ascertained; the broader express-clause issue remained undecided.

Source: [SCR137B-C](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee appeal dismissed with costs. Result: Revenue. Costs: Appeal dismissed with costs. Scope: Registration refusal upheld on unascertainable loss shares. Limit: No universal holding that every deed must expressly state loss shares.

Source: [SCR137B-C](#)

05 AKHB REVIEW POINT

For a partnership admitting a minor to benefits, verify who bears the whole loss, including the portion corresponding to the minor's profit entitlement. A generic statutory-compliance clause may not answer that question. Cite this judgment for ascertainability on its facts, while separately checking later registration law and decisions addressing express or inferable loss terms.

Source: [SCR135E-H;137A-C](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

7-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

SCR 134G introduces the quotation as section 12(b), but the surrounding reasoning and repeated identification are section 13(b) of the Partnership Act. The headnote once prints 6A for 26A. Neither slip is adopted as an operative provision. Judgment 6 October 1975 is distinguished from the 1976 SCR report.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 26A, 23(5), 66(1).

The checked 2011 sections 184–185 reflect assessment as a firm after the 1993 change. They must be applied on their own terms. Mandyala's historical loss-ascertainability holding does not settle its expressly reserved universal express-clause question.

Selected 2025/FA 2026 sections 325–326 retain an instrument-and-shares framework with their own certification and deduction consequences. Determine the whole adult loss allocation on the instrument's terms; do not convert Mandyala into an unqualified present statutory requirement for express wording.

Section 1(3) commenced the 2025 Act on 1 April 2026, subject to exceptions. Section 536 preserves prior operation, rights and liabilities and the 1961 procedure for specified earlier-year and pending proceedings. Determine the governing year and savings before using any comparison.

Related-section tags are research navigation only. They are not provisions decided in this judgment or verified mappings beyond any expressly bounded comparison below.

No automatic precedent carry-over or verified case-specific 2025 applicability is claimed.

LATER TREATMENT

Source checked 2026-10-07. Commissioner of Income-Tax v Nand Lal Jagdish Prasad (Allahabad High Court, 1996-08-09), paragraphs 5–7: Distinguishes Mandyala because the later deed expressly directed adult partners to bear losses, permitting their full distribution by construing the stated ratio. Mandyala must not be mechanically applied to all imperfect drafting.

Bounded later use is recorded below. No claim of exhaustive research, absence of contrary treatment or current-law certification is made.

IDENTIFIED SOURCE LINKS

[Commissioner of Income-Tax v Nand Lal Jagdish Prasad \(1996-08-09\), nonofficial judicial text reproduction](#)

paragraphs 5–7 Third-party public judicial text via web extraction; no court-original image validation; apparent OCR/typesetting anomalies preserved; link markup removed only in passage file; bounded passage only, not full later judgment.

[Income-tax Act, 1961, supplied DOR 2011 compilation](#)

Sections 184–185 and 1993 substitution, physical 780–781. Selected extracted text only; not present-day 1961 consolidation or source-image verification.

[Income-tax Act, 2025, as amended by Finance Act 2026](#)

Sections 325–326, physical 417–418, extracted lines 17022–17059. Selected official web-extracted text only; not full Act/raw-PDF/image/all-amendments verification. Physical pages are one-based; underlying web P indexes are zero-based.

[2025 Act commencement and savings, selected FA 2026 text](#)

Section 1(3), physical 1, lines 0–13; section 536(2)(a)–(e), physical 584–585, lines 24385–24408.

AI DISCLOSURE

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

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