

SETH BANARSI DASS GUPTA & ANR. ETC. v. COMMISSIONER OF INCOME-TAX, DELHI.

Civil Appeal No. 850 of 1973 and connected proceedings (full list below)

[1987] 3 SCR 101 | 1987-04-29

Under the 1922 Act, the partner's fractional machinery interest did not support depreciation; the lease-compromise receipts were taxable profits. Loss set-off and a receiver's proposed asset-value uplift also failed on the stated facts.

2-judge bench | Ranganath Misra, J. | G.L. Oza, J.

Historical ownership and loss rules

This decision applies the 1922 Act to fractional ownership and a dissolution receiver. Later ownership wording and loss conditions require independent comparison.

Operative context: Indian Income-tax Act, 1922; 10(2)(vi), 24, 66(1).

01 FACTS OF THE CASE

Four appeals concerned a sugar mill operated under a court receiver after dissolution litigation. Banarsi Dass acquired one-sixth interests by transfer or lease. When leased interests were returned under compromise or amicable arrangement, other partners agreed to annual payments. He claimed that these receipts replaced a capital interest and sought depreciation on a one-sixth machinery share valued at Rs. 4,50,000.

For 1954-55 he also sought to set off Rs. 78,084 of unabsorbed sugar-business loss against lease money received through the receiver. In the mill's separate 1960-61 assessment as an association of persons, the receiver sought to increase written-down value to reflect Banarsi Dass's acquisition price. The High Court rejected the disputed claims.

Source: [SCR103D-104G;106C-107B,F-H](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court affirmed that section 10(2)(vi), in the statutory form before it, required the property to belong to the assessee and did not admit the fractional ownership claim presented here. It also accepted that the compromise and amicable-arrangement payments represented profits for the interest held in the business. The capital-receipt argument therefore failed; the earlier interest-deduction controversy was not separately decided by this judgment.

For carried-forward loss, the Court endorsed the historical section 24 requirements of business income and the same business. The decisive factual finding was that letting the mill was not the assessee's business: the receiver maintained a running concern to secure a proper price on dissolution.

The receiver's depreciation claim also failed. The statutory claimant was the assessee; a partner's separate acquisition value did not justify maintaining a separate value for a fractional part of the mill's assets. The existing book value applied to the whole assets, including that interest.

Source: [SCR105E-106B;107C-E;108A-C](#)

03 JUDICIAL DECISION

All four appeals were dismissed. The receipts remained taxable; the fractional depreciation claim, carried-forward loss adjustment and proposed written-down-value enhancement were rejected. The parties were directed to bear their own costs.

Source: [SCR106B,E;107E;108C](#)

04 OUTCOME / IN WHOSE FAVOUR

Four assessee appeals dismissed. Result: Revenue. Costs: Each party bears own costs. Scope: All disputed issues decided against the respective assessees. Limit: 1922 Act ownership and loss provisions, and the receiver's dissolution facts.

Source: [SCR106B,E;107E;108C](#)

05 AKHB REVIEW POINT

Separate the partner's tax position from the firm or association's asset account. Record who owns the asset, who claims depreciation and why the receiver operates it. The historical fractional-ownership and same-business requirements demand version-specific statutory comparison before any modern use; they are not current-law rules merely because this judgment states them.

Source: [SCR106A-B;107C-E;108A-C](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 850 of 1973 / Civil Appeal No. 233 of 1976 / Civil Appeal No. 1101 of 1975 / Civil Appeal No. 941 of 1975; Originating High Court proceedings: Civil Miscellaneous (ITR) No. 461 of 1961 / I.T. Reference No. 236 of 1969

SOURCE & VERIFICATION

Original reported Supreme Court judgment

8-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

The judicial narrative at SCR 103 gives the 1948 transferor as Sheo Prasad, whereas SCR 106 describes the 1948 exchange as from Devi Chand; SCR 107 again names Sheo Prasad. The headnote's loan description differs from the later judicial exchange narrative. The printed 1954 compromise appears within discussion of 1953-54; no corrected chronology is invented. Each appeal's amounts and years are kept distinct.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 10(2)(vi), 24, 66(1).

The checked 2011 section 32(1) expressly permits wholly or partly owned assets. Section 72(1)(i) addresses any business or profession, and its old continuity proviso is shown omitted from 1 April 2000. These differences prevent mechanical use of the old fractional-ownership and same-business formulations.

Selected 2025/FA 2026 section 33(1) expressly covers wholly or partly owned assets, subject to use and other conditions. Section 112(1)(i) permits ordinary business-loss set-off against any business or profession carried on in that tax year, subject to the statutory scheme. The 1922 exclusions are not automatic current tests.

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. B.V.K. Seshavataram v Commissioner of Income-Tax (Andhra Pradesh High Court, 1994-04-18), paragraphs 5-10: Applies Seth Banarsi Dass to fractional ownership under the then wording of section 32(1), and upholds section 154 rectification using a subsequent binding judgment. This is a historical application; current wholly-or-partly ownership wording requires separate statutory comparison.

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

IDENTIFIED SOURCE LINKS

B.V.K. Seshavataram v Commissioner of Income-Tax (1994-04-18), nonofficial judicial text reproduction

paragraphs 5-10 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

Section 32(1), physical 206; section 72(1) and omitted-proviso note, physical 409-410. Selected extracted text only; not present-day 1961 consolidation or source-image verification.

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

Section 33(1), physical 64, extracted lines 2537–2546; section 112, physical 172, lines 7059–7071. 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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