

Wazid Ali Abid Ali, Etc. v. Commissioner of Income Tax, Lucknow, Etc.

Civil Appeal No. 1792 (NT) of 1974 / Civil Appeal No. 609 (NT) of 1975

[1988] 1 SCR 917 | 1987-11-10

How a partner's death and the partners' contract/conduct affect continued registration and assessment under the historical 1961-Act firm scheme: partial-year registration for an undissolved reconstituted firm versus separate assessments where the firm was actually dissolved.

184(7) and 184(8) (historical continuation and fresh registration) | 187(1) and 187(2) (historical reconstitution assessment) | 188 read with 170 (succession and separate assessments)

Two-judge bench | Sabyasachi Mukharji, J. | G.L. Oza, J.

Assessment years: 1965-66, 1964-65

Two distinct appeal outcomes under historical firm-registration law

Wazid obtained only the restored pre-death registration benefit; the Gujarat appeal concerned actual dissolution and two assessments. Do not turn both into a rule that every death dissolves a firm or every reconstitution requires two orders. The report contains section/period miscites (including section 187(7) and assessment-year wording) and differing single-assessment discussion; the operative groups and limited relief control this note. Joshi's application-specific registration entitlement was expressly reserved for closer examination. Later treatment and present-law/2025 mapping remain unverified.

01 FACTS OF THE CASE

The common judgment disposes two distinct appeals. In Civil Appeal No. 1792 (NT) of 1974, the assessee challenged the Allahabad High Court's 22 February 1972 answer to a section 256(1) reference for AY 1965-66. Wazid Ali Abid Ali had 17 partners under a 17 March 1959 deed. The relevant previous year was 17 November 1963 to 4 November 1964. The deed excluded dissolution on death and contemplated continuation with the remaining partners and an Indian-resident heir on mutually agreed terms. Qamaruddin died on 4 June 1964; his son Fariduddin joined. No new deed evidencing the changed constitution was executed before 4 November 1964. A Form XII declaration under section 184(7) was signed by the 16 survivors and Fariduddin (physical pages 5–7 / SCR 921–923).

The ITO and first appellate authority denied continued registration because fresh registration with an appropriate deed was required. The Tribunal accepted that requirement but allowed the alternative claim to registered-firm treatment up to 4 June 1964, with unregistered treatment for the remaining profits. Its account described a single assessment and apportionment among those entitled to the profits. The High Court rejected partial-year registration, giving rise to the assessee's appeal (physical pages 7–10 / SCR 923–926).

Civil Appeal No. 609 (NT) of 1975 was Revenue's certified appeal from Gujarat concerning AY 1964-65. One of five partners, Sarabhai Chimanlal, died on 9 March 1963. Although clause 8 prevented automatic dissolution on death, the Tribunal found dissolution by mutual consent inferred from conduct. Railway-contract books were closed, existing contracts were completed without new business, and later realisations were distributed, including to the deceased partner's estate. Two returns split the period at his death. The Tribunal and High Court treated the subsequent activities as winding up, directed separate assessments and held section 187(2) inapplicable. The deceased's widow Kanchanben received his share as representative of his estate, distinct from her own capacity as a partner (physical pages 10–14 / SCR 926–930).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read the historical registration and assessment provisions together with partnership law. Death does not invariably dissolve a firm: section 42(c) of the Partnership Act is subject to the partners' contract. Sections 184(7)–(8) distinguish continuing registration from fresh registration after a change; sections 187 and 188 distinguish reconstitution of a continuing firm from succession. The Court also noted the subsequently inserted section 187(2) proviso and its stated 1 April 1975 effective date (physical pages 14–17 / SCR 930–933).

In Wazid, the contract prevented dissolution, but the death and admission of Fariduddin changed the constitution. His entry required agreement and was not automatic. A fresh deed/application was the proper route for the changed firm. Nevertheless, failure to secure registration for the changed period did not invalidate the existing registration up to Qamaruddin's death. Finding no statutory prohibition, the Court upheld the Tribunal's limited registered/unregistered allocation and rejected the High Court's all-year denial (physical pages 17–18 / SCR 933–934).

The Court discussed conflicting High Court decisions, disagreed with the stated conclusions in Vishwanath Seth and Girdharilal Nannelal and accepted Sant Lal Arvind Kumar's reasoning that actual dissolution and succession can require separate assessments under section 188. Those observations must be read with the particular reference question and restored Tribunal result in Wazid, rather than converted into an indiscriminate rule that every reconstitution demands two assessment orders (physical pages 19–21 / SCR 935–937).

On Joshi and Co., the Court agreed that the survival clause meant a change in constitution rather than dissolution. It expressly qualified its apparent agreement on registration: entitlement on the particular applications, printed as Forms II and IIA, required closer examination when that case's facts were re-examined. This was not an unqualified approval of registration through any later-executed instrument (physical pages 22–23 / SCR 938–939).

For the Gujarat appeal, the factual finding was actual dissolution by the manner in which the parties acted, followed only by winding up and realisation. The same firm did not continue; section 187(2) did not apply and two separate assessments were appropriate (physical page 23 / SCR 939).

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

03 JUDICIAL DECISION

Civil Appeal No. 1792 (NT) of 1974 was allowed; the Allahabad High Court's judgment and order were set aside and the Tribunal's view restored. Civil Appeal No. 609 (NT) of 1975 was dismissed, leaving the Gujarat High Court's answers for the assessee intact. The parties in both appeals were to bear their own costs. No fresh registration for Wazid's changed constitution was granted for the remaining period (physical pages 23–24 / SCR 939–940).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee in each appeal, on different grounds

Wazid/Allahabad appeal allowed; Revenue/Gujarat appeal dismissed; parties bear their own costs in both

Final common judgment: limited pre-change registration preserved in the first appeal; actual dissolution and separate assessments upheld in the second

Historical registered/unregistered firm scheme. Contractual survival and factual dissolution must be distinguished; the Joshi application-specific registration question was expressly qualified.

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

05 AKHB REVIEW POINT

Separate three questions: whether the firm legally survived, whether its constitution changed, and what registration remained effective for each period. A survival clause may prevent automatic dissolution without preserving registration for a changed constitution. Equally, a survival clause does not prevent all partners from actually dissolving the firm by mutual agreement proved by their conduct. Winding-up receipts and estate distributions should not be mistaken for continuation of the old partnership.

For the first appeal, preserve the narrow relief: registered treatment of profits up to death and unregistered treatment thereafter under the restored Tribunal view. For the second, preserve actual dissolution and two assessments. Do not merge the two outcomes into a blanket death-of-partner or assessment-count rule. The source's internally inconsistent section and period labels, and the Court's express Joshi reservation, are material. These historical provisions require a separate relevant-year and later-treatment check before use in a live matter.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, author and complete appeal groups

Source url: [Open cited source](#)

Pdf pages: 1; 5; 6; 10; 24

Reporter pinpoint: SCR 917, 921-922, 926, 940

Paragraphs: Unnumbered judicial text unless expressly identified as report metadata

Source role: reported metadata and judicial text

2.

Topic: Wazid facts, reference and Tribunal allocation

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9; 10

Reporter pinpoint: SCR 922–926

Paragraphs: Unnumbered judicial text unless expressly identified as report metadata

Source role: judicial text

3.

Topic: Gujarat facts, conduct, estate distinction and reference answers

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13; 14

Reporter pinpoint: SCR 926–930

Paragraphs: Unnumbered judicial text unless expressly identified as report metadata

Source role: judicial text

4.

Topic: Historical firm scheme and later proviso context

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16

Reporter pinpoint: SCR 930–932

Paragraphs: Unnumbered judicial text unless expressly identified as report metadata

Source role: judicial text

5.

Topic: Wazid limited registration holding and source miscites

Source url: [Open cited source](#)

Pdf pages: 17; 18

Reporter pinpoint: SCR 933–934

Paragraphs: Unnumbered judicial text unless expressly identified as report metadata

Source role: judicial text

6.

Topic: Conflicting assessment-count authorities and succession reasoning

Source url: [Open cited source](#)

Pdf pages: 19; 20; 21

Reporter pinpoint: SCR 935–937

Paragraphs: Unnumbered judicial text unless expressly identified as report metadata

Source role: judicial text

7.

Topic: Joshi qualification and Gujarat merits outcome

Source url: [Open cited source](#)

Pdf pages: 22; 23

Reporter pinpoint: SCR 938–939

Paragraphs: Unnumbered judicial text unless expressly identified as report metadata

Source role: judicial text

8.

Topic: Both operative appeal dispositions and own-costs direction

Source url: [Open cited source](#)

Pdf pages: 23; 24

Reporter pinpoint: SCR 939–940

Paragraphs: Unnumbered judicial text unless expressly identified as report metadata

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sabyasachi Mukharji, J.

OTHER STATUTORY CONTEXT

Sections 182–189, Income-tax Act, 1961: historical firm-assessment scheme discussed; sections 185 and 186 not independently decided; Section 256(1): Allahabad reference origin; Indian Partnership Act, 1932, sections 4, 39 and 42(c): contract, dissolution and death subject to contrary contract; Proviso to section 187(2), inserted by Taxation Laws (Amendment) Act, 1984 with effect from 1 April 1975: later statutory background noted, not automatically applied to these earlier assessment years

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

ASSESSMENT-YEAR CONTEXT AND LIMITS

AY 1965-66 belongs to the Wazid/Allahabad appeal; AY 1964-65 belongs to the companion Revenue/Gujarat appeal. Neither is the AY 1976-77 of the cited Joshi and Co. decision.

SOURCE & VERIFICATION

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

Identified source rendition: 24 PDF pages; SHA-256

518d677c27d73a3e076fbc01e887e9e187412902787d209b529002a28ce0b1ac. Original bytes preserved.

Judicial reasons begin at physical page 5/SCR 921, continue through pages 6–24/SCR 922–940 and dispose both Civil Appeal Nos. 1792 (NT)/1974 and 609 (NT)/1975. Editorial headnote pages 1–5 is distinct. No adjacent judgment.

[Open cited source rendition](#)

The reported volume is 1988; the judgment date on physical page 1 is 10 November 1987.

The companion Gujarat assessee is not independently named in this report's caption/body; the note identifies it by its verified appeal number rather than guessing a party name.; Physical page 17/SCR 933 calls 4 November 1964 the end of the assessment year; physical page 6/SCR 922 correctly identifies that date as the end of the previous year relevant to AY 1965-66.; Physical page 17/SCR 933 prints sub-section (7) of section 187 for the fresh-deed proposition; page 9/SCR 925 prints section 164(8). The coherent statutory exposition is section 184(7)–(8) at page 15/SCR 931. These are not reproduced as valid section references or silently repaired in the source.; Physical page 11/SCR 927 labels declarations under sections 184(2) and 187(2), whereas page 12/SCR 928 identifies the continuation application under section 184(7); the note avoids adopting inconsistent labels as governing holdings.; The source's recital of the restored Tribunal order at page 7 describes a single assessment with registered/unregistered profit allocation. Pages 19–20 disagree with broad single/clubbing formulations in cited decisions. The case-specific order is preserved without inventing a universal assessment-count rule.; Joshi and Co. concerns AY 1976-77 and the report's Forms II/IIA; its particular entitlement to registration was expressly left for closer examination, not decided in either operative appeal.; The later section 187(2) proviso and 1 April 1975 effective date are reported background. No automatic retrospective application to these AYs or present/2025 mapping is made.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 mapping or present-law certification. Historical statutory language and assessment years are retained.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive later judicial treatment has not been verified. No current-law certification is made.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 24](#)

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