

Chandrakant Manilal Shah and Another v. Commissioner of Income Tax, Bombay-II

Civil Appeal No. 1187 (NT) of 1976

[1991] Supp. 1 SCR 546 | 1991-10-24

An undivided coparcener may enter a genuine partnership with the HUF's karta by contributing personal skill and labour rather than cash. Absence of prior partition or a cash contribution did not invalidate this agreed working partnership; the assessee's appeal was allowed.

3-judge bench | S. Ranganathan, J. | V. Ramaswami, J. | N.D. Ojha, J.

Genuine working partnership required

The ruling rejects a cash-only rule where no fiction or other invalidity was alleged; the headnote's "section 4(57)" is not the Partnership Act provision identified in the judicial text.

Operative context: Indian Income-tax Act, 1922; historical sections 26A, 66(1).

01 FACTS OF THE CASE

Chandrakant Manilal Shah was karta of an HUF carrying on a cloth business. His son Naresh had worked for a monthly salary of Rs 100 from about April 1959. A deed executed on 12 November 1959 recorded a partnership effective from 1 November: Naresh was a working partner with 35% of profits and losses, and Chandrakant held 65% in his representative capacity.

For AY 1961-62, the Income-tax Officer refused firm registration for want of a valid partnership. The appellate authorities agreed, treating the business as continuing in the HUF's hands. The Bombay High Court answered the referred validity question against the assessee. The disputed objection was that Naresh remained undivided and brought skill and labour instead of separate cash capital.

Source: [SCR 550 A-H](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the premise that Hindu law generally forbids contracts between undivided family members. A member can possess and use separate assets while retaining an interest in joint property. The karta represents the family in the agreement; membership of that family does not itself prevent another member from contracting in an individual capacity.

Lachhman Das recognised partnership using a coparcener's separate property. Firm Bhagat Ram Mohanlal did not establish a cash-only rule: it rejected a claim that members became partners without a relevant agreement or contribution merely because their karta was a partner. The Court read those observations in their factual setting and approved the contrary-to-Revenue approach taken by the Mysore, Madhya Pradesh and Allahabad High Courts.

Sections 2 and 3 of the Hindu Gains of Learning Act also undermined Revenue's argument that the member's skills necessarily belonged to the HUF. Skill, expertise and labour are personal assets capable of serving as consideration for a profit share. Like cash, they can help the business earn profits. An agreement to contribute real services in return for that share therefore need not await severance of family status.

The existence and genuineness of the contribution remain factual matters. The Court specifically noted that Revenue did not allege this partnership was fictitious or invalid on another ground. The Bombay and Gujarat authorities relied on by Revenue were not good law insofar as read to impose the contrary general rule.

Source: [SCR 558 E-H](#); [SCR 559 A-H](#); [SCR 560 A-H](#); [SCR 561 C-H](#); [SCR 562](#); [SCR 563 A-F](#)

03 JUDICIAL DECISION

The Supreme Court set aside the High Court's judgment and answered the referred question affirmatively: the partnership between Chandrakant as karta and Naresh as an individual family member was valid. It allowed the appeal without an order as to costs.

Source: [SCR 563 E-H](#)

04 OUTCOME / IN WHOSE FAVOUR

Appeal allowed; High Court judgment set aside; partnership-validity reference answered for assessee. Result: Assessee. Costs: No order as to costs. Scope: The cash-contribution/prior-separation objection to the partnership failed; no finding of fictitious arrangement or separate registration defect arose. Limit: A genuine agreement and actual personal contribution matter; family membership alone does not create partnership rights.

Source: [SCR 563 E-H](#)

05 AKHB REVIEW POINT

Record each signatory's capacity, the agreed work and the profit-and-loss shares. Keep evidence that the working partner actually supplies the promised services; a recital cannot replace performance. Distinguish partnership validity from the separate tax treatment of remuneration and profit shares under the provisions applicable to the relevant year. The case answers an objection to legal capacity and non-cash consideration, not every later requirement for assessment as a firm or deduction of partner payments.

Source: [SCR 555 E-H, quoted reasoning approved](#); [SCR 563 C-G](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

18-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 discussion at SCR 559 identifies Partnership Act section 4. The note does not adopt the headnote's anomalous section 4(57) label.

STATUTORY SCOPE

Indian Income-tax Act, 1922; historical sections 26A, 66(1).

Separately identified 1961 Act provisions and their limited roles: Section 185(1) (historical firm-registration regime): Later setting identified in K.T.S. Nagamanickam Chettiar; not operative in the present AY1961-62 case or a verified current-version mapping..

Other statutes discussed: Indian Partnership Act, 1932, section 4; Hindu Gains of Learning Act, 1930, section 2, 3.

Current statutory equivalence and Income-tax Act, 2025 applicability have not been verified. No automatic carry-over of this precedent is claimed.

LATER TREATMENT

Source checked 2026-10-06. CIT v. K.T.S. Nagamanickam Chettiar (Decd.), [1999] 237 ITR 556 (Mad), decided 19 December 1997, paragraph 4, cited Chandrakant in supporting a genuine karta-coparcener partnership's registration for AY 1978-79 under the historical 1961 Act regime. This is specific later High Court use; its own earlier decision was also relied on. Comprehensive subsequent history remains unverified.

IDENTIFIED SOURCE LINKS

CIT v. K.T.S. Nagamanickam Chettiar (Decd.) (1997-12-19), nonofficial judicial-text reproduction

Paragraphs 4-5. Full five-paragraph judicial HTML text delivered by web search; direct-open cache failure, no raw PDF/image read claimed.

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