

Nagarmal Baijnath v. Commissioner of Income Tax

Civil Appeal No. 156 of 1979 / Civil Appeal No. 157 of 1979

[1993] 2 SCR 645 | 1993-03-26

The Supreme Court upheld assessment of a dissolved firm under section 44 of the Indian Income-tax Act, 1922, as it stood before the Finance Act 1958. The decisive fact was that dissolution had brought the firm's business to an end. The common judgment dismissed Civil Appeal Nos. 156-157 of 1979, with no costs, leaving the income-tax and associated excess-profits-tax assessments intact.

Two-judge bench | B.P. Jeevan Reddy, J. | N. Venkatachala, J.

Pre-1958 section 44 of the 1922 Act

Dissolution causing actual business discontinuance under pre-1958 section 44; no direct 1961 section 189 holding.

01 FACTS OF THE CASE

Nagarmal Baijnath was dissolved by a deed dated 2 December 1946 and its business was discontinued. Income-tax assessments for AY 1946-47 and 1947-48 were completed in the firm's name on 23 March 1951 and 10 March 1952. The challenge also covered excess-profits-tax assessments for periods ending 4 November 1945 and 31 March 1946.

The firm argued that the unamended section 44 mentioned dissolution of an association of persons but not dissolution of a firm, so an assessment could not be made on the dissolved firm. It said the 1958 amendment supplied the missing authority. Although the validity objection was first raised through additional Tribunal grounds, the Tribunal admitted it and the courts decided the statutory question.

Source: [SCR 647 A-648 H; 649 A-C](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished dissolution from discontinuance. Before 1958, section 44 covered discontinuance of a business carried on by a firm or an association, and dissolution of an association. Here, counsel expressly confirmed that the firm's dissolution had also ended its business. That brought the case within the discontinuance limb. A dissolved firm whose business continued was expressly outside the issue being decided.

Applying *C.A. Abraham v. ITO*, 41 ITR 425, and *Shivram Poddar v. ITO*, 51 ITR 823, the Court held that section 44 kept the assessment machinery operating for the discontinued firm. The statutory fiction allowed assessment proceedings to begin or continue as though discontinuance had not occurred; the partners' joint and several liability supported that machinery. This was a construction of the unamended provision, not retrospective application of the 1958 amendment.

The Court treated those Supreme Court authorities as conclusive. The Gujarat decision invoked by the assessee did not establish a contrary rule: it too recognised assessment where dissolution caused business discontinuance. The Court therefore rejected the challenge on statutory grounds, rather than holding that participation in proceedings cures every jurisdictional defect.

Source: [SCR 649 D-654 C](#)

03 JUDICIAL DECISION

The Supreme Court upheld assessment of a dissolved firm under section 44 of the Indian Income-tax Act, 1922, as it stood before the Finance Act 1958. The decisive fact was that dissolution had brought the firm's business to an end. The common judgment dismissed Civil Appeal Nos. 156-157 of 1979, with no costs, leaving the income-tax and associated excess-profits-tax assessments intact.

Source: [SCR 650 E-H; 653 B-C; 654 C](#)

04 OUTCOME / IN WHOSE FAVOUR

Both captioned civil appeals dismissed by the common judgment; assessments upheld. Result: Revenue. Costs: No costs. Scope: Substantive pre-1958 section 44 assessment-power decision. Limit: Dissolution causing actual business discontinuance under pre-1958 section 44; no direct 1961 section 189 holding.

Source: [SCR 650 E-H; 653 B-C; 654 C](#)

05 AKHB REVIEW POINT

Establish when the business ended, when the relevant income arose or was received, who received it, and which statutory version governs. The continued ability to assess a dissolved firm and the chargeability of a later receipt are distinct questions. Nagarmal is useful legacy authority on the first question within its facts; apply any later provision on its own text.

Source: [SCR 650 E-653 C; Paragraphs 49-50](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

Ten-page reported SCR copy; judicial text at SCR 647 A-654 C. The first two pages include the report cover and headnote. The complete retained report was read. This is the retained public-mirror rendition; fresh remote authentication as a signed original is not claimed.

Open cited source rendition

The report captions appeals 156-157 but uses the singular "appeal" in its final line; this note treats them as a common disposal without assigning separate tax years to each docket. The report prints "Excess Profits Tax Act, 1948" and an apparent 1985 date for a Gujarat case discussed in the 1977 High Court proceedings; those particulars are left unresolved.

STATUTORY SCOPE

For research under the 1961 Act, section 189(1) expressly covers either discontinuance of a firm's business or dissolution of the firm and provides for assessment as if that event had not occurred. That later text is broader in its express dissolution trigger than the pre-1958 provision applied here. The comparison is to the Income Tax Department's version labelled 2024 (No. 2); Nagarmal itself did not construe section 189.

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. In CIT v. Star Andheri Estate, [1994] 208 ITR 573 (Bom), decided 8 March 1994, paragraphs 14-15 expressly relied on the Supreme Court's Nagarmal decision in a dispute under sections 176(3A) and 189. In Banyan and Berry v. CIT, [1996] 222 ITR 831 (Guj), decided 21 December 1995, paragraphs 49-50 disagreed with that broader use: Nagarmal concerned continuation of assessment machinery for pre-dissolution income and did not decide that the firm continues for taxation of income arising after it ceased to exist. These are specific later uses, not a complete later-history review.

The two identified High Court passages only; their different applications do not resolve current or all-India law.

IDENTIFIED SOURCE LINKS

Income Tax Department: section 189, displayed version 2024 (No. 2)

Subsections (1)-(5) and displayed amendment notes read as a bounded later-text comparison on 6 October 2026; this is not a provision adjudicated in Nagarmal.

CIT v. Star Andheri Estate, 8 March 1994, paragraphs 14-15

Nonofficial judicial-text reproduction. Paragraphs 1-20 read; specific reliance checked at paragraphs 12-18. No retained raw PDF or image verification.

Banyan and Berry v. CIT, 21 December 1995, paragraphs 49-50

Nonofficial web-extracted judicial text. The bounded check covered identity, paragraphs 49-50 on reported physical pages 34-36, surrounding discussion and final answers. The full reported 41-page judgment was not read; no retained raw PDF, hash or image verification.

AI DISCLOSURE

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

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