

The Additional Commissioner of Income-Tax, Andhra Pradesh v. M/s. Degaon Ganga Reddy G. Ramakrishna and Co. and Others

Civil Appeal No. 222 of 1977 and connected appeals (remaining numbers not printed)

[1995] 2 SCR 404 | 1995-03-01

Whether genuine sub-partnerships financing individual partners' capital in a licensed abkari main firm, and sharing only those partners' profits and losses, violated section 14 of the Abkari Act and were consequently ineligible for income-tax registration for AY 1964-65.

256(1)

Two-judge bench | J.S. Verma, J. | K.S. Paripoornan, J.

Assessment years: 1964-65

Historical registration; financing-only findings and exact costs

Registration was upheld for AY 1964-65 on findings of genuine, separate financing sub-partnerships. The decision does not validate unlicensed liquor trading or override other licence wording. Only the lead appeal number is printed; costs are Rs 5,000 without a per-case allocation. Posetty's later treatment is specifically checked, but comprehensive later treatment, current-law application and 2025 mapping remain unverified.

01 FACTS OF THE CASE

Nizamabad Group Sendhi Contractors was formed by a deed dated 15 October 1962 with seventeen partners and was registered under the Income-tax Act. Rampuram Ganga Goud had a ten per cent share. The main firm was the excise lessee and highest auction bidder for the stated Fasli year 1962-63. Unable to provide the required capital, Ganga Goud entered a sub-partnership deed on 27 August 1963 with eleven others, who agreed to finance his contribution in return for shares in his ten per cent interest. The registration application was filed on 30 September 1963 (physical pages 3-4 / SCR 406-407).

The ITO refused registration on two grounds: that the sub-partnership carried on no business during the relevant year and that it was void because its members other than Ganga Goud had no abkari licences. The AAC agreed. Six similar sub-partnership applications by other main-firm partners and their associates were also refused. On the deeds, the Tribunal held all seven sub-partnerships to be valid separate entities carrying on business and entitled to registration (physical page 4 / SCR 407).

On Revenue's section 256(1) references, the High Court affirmed entitlement for AY 1964-65. Revenue appealed by certificate. The Supreme Court report prints Civil Appeal No. 222 of 1977 followed by "etc. etc." and refers to appeals in the operative order; the other appeal numbers are not supplied (physical pages 3-4 and 7 / SCR 406-407 and 410).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted the sub-partnership principle explained through Murlidhar Himatsingka: a partner may form a genuine sub-partnership with others in relation to the income or loss of his main-firm share, and the sub-partners have enforceable rights between themselves without thereby becoming partners in the main firm. The main partnership and the sub-partnership remain distinct for income-tax purposes. The quoted explanation also refers to diversion by superior title, but the question actually decided here was entitlement to registration (physical pages 4–5 / SCR 407–408).

The Court approved the High Court's distinction between financing a partner's contribution and carrying on the licensed liquor business itself. The deeds and the Tribunal's findings showed that these sub-partnerships financed and owned the capital invested through their respective partners and confined their business to sharing the profits and losses arising to those partners. They did not themselves sell or deal in liquor. The approved reasoning expressly distinguished a sub-partnership actually conducting prohibited trade without the necessary licence; such an arrangement would raise a different illegality question (physical pages 5–6 / SCR 408–409).

Section 14 prohibited the lessee from declaring a person its partner without Government permission and prohibited that person from acting as such without the requisite licence from the Collector or other competent officer. On the clear findings about these distinct financing arrangements, that provision was not violated. Jer and Co. additionally illustrated that the precise licence wording matters: a prohibition on transfer or subletting is not automatically a prohibition on every partnership arrangement. Genuineness and the actual business remained central to the conclusion (physical pages 6–7 / SCR 409–410).

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

03 JUDICIAL DECISION

The Court upheld the High Court's affirmative answer in favour of the assessee sub-partnerships for AY 1964-65. Revenue's appeals were dismissed with costs quantified at Rs 5,000. The order does not say Rs 5,000 per appeal or per sub-partnership, and the note does not multiply that sum (physical page 7 / SCR 410).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee sub-partnerships

Revenue appeals dismissed; entitlement to historical registration upheld; costs quantified at Rs 5,000

Final reasoned merits determination on the common registration question

Seven genuine, separate financing sub-partnerships on the Tribunal's findings, for AY 1964-65. No permission to trade in liquor without a licence and no universal rule overriding differently worded excise restrictions.

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

05 AKHB REVIEW POINT

Identify the excise lessee and trace exactly what rights the financing agreement creates. Sharing one partner's profits and losses does not itself give a financier membership of, management rights in, or a claim against the licensed main firm. The instrument, capital accounts and actual conduct should support a genuine separate financing business rather than merely adopt that description.

A narrow later-source check reinforces the distinction. The three-judge judgment in Commissioner of Income Tax v. B. Posetty and Co., dated 5 November 1996, treated the main firm and the financing sub-partnership as distinct, declined to reconsider Degaon on similar facts, and distinguished Bihari Lal's broader Madhya Pradesh licence condition (independently read physical pages 10–12 / SCR 461–463 of S_1996_8_452_463). This specifically verified passage is useful context; it does not amount to a comprehensive subsequent-treatment search.

Do not recast the decision as a general licence exemption for sub-partnerships, or as a freestanding ruling on every question of diverted income. It decides registration under a historical scheme, on clear business findings and a particular state provision. Keep the seven underlying matters separate from the incomplete printed Supreme Court appeal-number list, and preserve the single Rs 5,000 costs figure without inventing an allocation.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Caption, date, bench and limited appeal-number information

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Exact physical PDF pages; SCR pagination stated in the note. Primary 1995 judicial text is unnumbered.

Source role: reported metadata and judicial text

2.

Topic: AY 1964-65 question, main firm, ten per cent share and sub-partnership dates

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Exact physical PDF pages; SCR pagination stated in the note. Primary 1995 judicial text is unnumbered.

Source role: judicial text

3.

Topic: Seven matters and Tribunal findings

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: Exact physical PDF pages; SCR pagination stated in the note. Primary 1995 judicial text is unnumbered.

Source role: judicial text

4.

Topic: Sub-partnership rights and actual unlicensed-trading distinction

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: Exact physical PDF pages; SCR pagination stated in the note. Primary 1995 judicial text is unnumbered.

Source role: judicial text

5.

Topic: Exact section 14 text and fact-specific conclusion

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: Exact physical PDF pages; SCR pagination stated in the note. Primary 1995 judicial text is unnumbered.

Source role: judicial text

6.

Topic: Appeals dismissed and Rs 5,000 costs

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Exact physical PDF pages; SCR pagination stated in the note. Primary 1995 judicial text is unnumbered.

Source role: judicial text

7.

Topic: Bounded later three-judge decision declining to reconsider Degaon and distinguishing Bihari Lal

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: Paragraph 8 and concluding unnumbered judicial discussion, physical pages 10–12 / SCR 461–463.

Source role: bounded later judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

J.S. Verma, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 7 PDF pages; SHA-256

4284f30966137976ad7cfd449a95a3079f9c5c5fc14d927ad6d94420e320ecbf. Original bytes preserved.

Complete judicial text physical pages 3–7 / SCR 406–410; editorial headnote pages 1–2 separated. Seven sub-partnership matters, limited printed appeal caption, fact-specific financing arrangement and quantified costs distinguished.

[Open cited source rendition](#)

The report prints Civil Appeal No. 222 of 1977 etc. etc.; it describes seven underlying sub-partnership matters but does not enumerate all Supreme Court appeal numbers.; The relevant tax year is AY 1964-65. The main firm's stated Fasli auction year 1962-63 and the 1963 sub-partnership/application dates are different facts, not replacement assessment years.; The operative costs award is simply Rs 5,000, without a per-appeal or per-firm allocation.; The source does not expressly number sections 184 and 185. They should not be inserted as primary-source section quotations merely because this is a registration case.; The source's final holding depends on clear Tribunal findings of financing-only business and genuine sub-partnerships; the approved reasoning excludes actual unlicensed liquor trading.; The scanned title reads Degaon Ganga Reddy G. Ramakrishna and Co.; extracted text and later reports contain minor spelling/OCR variations. Jer and Co. is misread as "fer" in OCR.; The specific Posetty 1996 approval/distinction passage is verified; comprehensive subsequent treatment, current law and 2025 mapping remain unverified.

The 1995 primary judicial body expressly numbers section 256(1), but does not number the income-tax registration provisions. Sections 184 and 185 are not added as if quoted in this source. The central non-tax provision is section 14 of the Andhra Pradesh (Telangana Area) Abkari Act, 1316 F.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent-treatment search has been completed. Any specifically identified later primary passage is separately bounded and does not certify present law.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 7](#)

SHA-256: 4284f30966137976ad7cfd449a95a3079f9c5c5fc14d927ad6d94420e320ecbf

[bounded later judgment - PDF pages: 12](#)

SHA-256: 21c8e603407d1b7d97c329476949532c893e5837086b31c04ae1edecdd7a2664

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.