

M/s. Brij Mohan Das Laxman Das v. Commissioner of Income Tax, Allahabad

Civil Appeal No. 2100 of 1979

[1996] Supp 9 SCR 775 | 1996-12-10

Whether interest on a partner's individual funds was disallowable under historical section 40(b) when he joined the firm as karta representing his HUF, and whether the declaratory explanation applied to AY 1974-75 before its stated commencement.

40(b) (historical partner-payment disallowance) | 40(b), Explanation 2 (historical declaratory explanation introduced from 1 April 1985) | 2(31) (distinct tax-person discussion) | 256 (reference) | 261 (High Court certificate)

Two-judge bench | B.P. Jeevan Reddy, J. | K.S. Paripoornan, J.

Assessment years: 1974-75

Personal-deposit interest of an HUF representative partner

For AY 1974-75, interest on the partner's personal funds escaped historical section 40(b); Explanation 2 was held declaratory in that specific context despite its 1 April 1985 insertion. This is not a blanket partner-remuneration exemption or a rule that all explanations are retrospective. The checked Kanji Shivji order later affirmed this interest interpretation and treated Rashik Lal's contrary interest remarks as obiter. That bounded check is not comprehensive later-treatment or current-law verification.

01 FACTS OF THE CASE

The assessee was a registered partnership firm with three partners. Rajendra Kumar was a partner as karta representing his HUF. The firm maintained separate capital and deposit accounts in his name: his share of profit went to the capital account, while interest on deposits made in his individual capacity was credited to the deposit account. He was assessed both individually and in HUF status (physical page 4).

For AY 1974-75, the ITO added back Rs 7,923 of interest paid to him as a payment to a partner. The Appellate Assistant Commissioner agreed. The Tribunal allowed the firm's claim, but the High Court, following its London Machinery decision, reversed and certified the appeal under section 261 (physical page 4).

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

02 DISCUSSION BY THE HON'BLE COURT

The provision then in dispute broadly disallowed specified payments by a firm to a partner. The Court reproduced the later-added explanations and expressly identified their insertion with effect from 1 April 1985. Historical Explanation 2 distinguished interest paid to an individual otherwise than as a representative partner from interest paid in that representative capacity. The question was whether its explanation of the law extended to earlier years, although the amending Act had not expressly made it retrospective (physical pages 3–5).

The Court considered the basic partnership relationship and Chidambaram Pillai's description of a firm and its partners. It nevertheless held that this did not prevent a partner representing an HUF from depositing personal funds and receiving interest in a distinct individual capacity. Explanation 2 recognised those different capacities for section 40(b), and there was no reason to deny that interpretation for periods before 1 April 1985. In that context the explanation was declaratory; the Court agreed with Gajanand Poonam Chand (physical pages 5–7).

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

03 JUDICIAL DECISION

The firm's appeal was allowed without costs. The High Court judgment was set aside and the referred question answered in the affirmative for the assessee: interest on the representative partner's personal deposits did not attract this historical section 40(b) disallowance, including for AY 1974-75 (physical page 7).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee firm

Appeal allowed; High Court set aside; reference answered for assessee; no costs

Final historical partner-capacity interest ruling; Explanation 2 held declaratory in its section 40(b) context

Concerns interest on personal funds of a partner representing an HUF; not a general deduction for all partner remuneration or a finding that every statutory explanation is retrospective.

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

05 AKHB REVIEW POINT

Trace the capacity in which the partner joined and the ownership of the deposited funds. The separate capital and deposit accounts supported the distinction in this case; account labels alone are not a universal substitute for establishing those facts. The Court expressly confined its different-capacities reasoning to the section 40(b) context. Do not expand this interest decision into blanket permission for salary, commission or other remuneration.

The complete three-judge Kanji Shivji order of 25 January 2000 was independently checked for a limited later-treatment comparison. It said Brij Mohan Das's declaratory interpretation had been accepted in Suwalal Anandilal Jain and remained the correct exposition. It treated Rashik Lal's contrary observations about the explanation as obiter because no interest payment was in issue there. That is a later clarification of the interest point, not wording or reasoning attributed to this 1996 judgment and not a conclusion that Rashik Lal was overruled in full.

Use the historical numbering and the AY 1974-75 statutory setting. The quoted later-added explanations are not evidence that they had already been textually enacted in that assessment year. Further statutory versions, present limits and comprehensive later treatment remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, bench and appeal number

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Cover and jurisdiction block

Source role: reported metadata

2.

Topic: Historical statutory wording and separate-capacity explanations

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: AY 1974-75 facts, separate accounts, Rs 7,923 and procedural history

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: 1 April 1985 commencement and declaratory question

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Partnership relationship and bounded different-capacities reasoning

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Declaratory holding, answer to reference and no-costs disposal

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Unnumbered judicial text

Source role: judicial text

7.

Topic: Direct later affirmation and Rashik Lal interest-obiter qualification

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Complete Court order

Source role: later judicial treatment

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, 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

51d6451ef531e8914afd2077862c42b9774566098d7cf0444a89968f26a99166. Original bytes preserved.

Entire unnumbered judicial text physical pages 3–7/SCR 777–781; editorial material on physical pages 1–2 separately read.

Historical Explanation 2 distinguished from later statutory versions.

[Open cited source rendition](#)

The source cover unequivocally gives 10 December 1996. No 1997 decision date is inferred from an external reporter citation.; The opening judicial page reproduces explanations later added from 1 April 1985; physical page 5 expressly supplies that commencement. Their quotation does not mean they were enacted in AY 1974-75.; The operative holding concerns interest on personal/individual deposits by a partner representing an HUF. The Court confines recognition of different capacities to section 40(b), rather than adopting a universal partnership-law rule.; Kanji Shivji is a three-judge order on the directly checked source cover despite incomplete corpus bench metadata. It affirms this interest interpretation; comprehensive later treatment is still not verified.; The later comparison relies directly on Kanji Shivji's complete order. This batch does not claim independent re-review of the full Suwalal and Rashik Lal sources, or that Rashik Lal was overruled in full.; The Rs 7,923 amount is the historical interest disallowance in issue, not a statutory ceiling or a quantified refund order.

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. Comprehensive later treatment remains not verified. The complete two-page three-judge Kanji Shivji order of 25 January 2000 was directly read and visually checked; its express affirmation of Brij Mohan Das and qualification of Rashik Lal's interest observations are stated only as this bounded later-treatment edge.

IDENTIFIED SOURCE LINKS

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

SHA-256: 51d6451ef531e8914afd2077862c42b9774566098d7cf0444a89968f26a99166

[later reported judgment direct treatment - PDF pages: 2](#)

SHA-256: df2a5146f975242a88e3ba35b224db954860eb2f3ffee36628f7c2fdb2a9b3ae

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