

M/s Progressive Financers v. The Commissioner of Income Tax, Madras

Civil Appeal No. 1568 (NT) of 1981 (caption); three appeals expressly identified in the judicial body, two companion appeal numbers not printed

[1997] 2 SCR 280 | 1997-02-20

Whether historical firm registration could be refused because the deed did not expressly state adult partners' loss percentages, although a reasonable reading and the prescribed application schedule made them ascertainable.

184 (historical registration) | 185 (historical registration reference)

Two-judge bench | S.C. Agrawal, J. | G.T. Nanavati, J.

Assessment years: 1968-69, 1969-70, 1970-71

Historical registration; three appeals and year conflict retained

The Court allowed three appeals on a consistent deed/application allocation: adults bore losses 40:20:20:20 and the minor bore none. It did not make every omission immaterial. Only one appeal number is printed; the initial AY 1967-68 recital conflicts with the operative AY 1968-69 registration relief. The old registration regime changed from 1 April 1993; current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The firm was formed by a 1 July 1967 deed with four adults and a minor admitted to the benefits of partnership. Of Rs 5 lakh capital, the adults contributed 25%, 12.5%, 12.5% and 12.5%, and the minor 37.5%; net profits followed capital proportions. The ITO regarded the minor as a full partner and the contract as void, relying on several deed clauses and the lack of an express loss-sharing clause. Registration and continuation were refused and assessments made as an association of persons (physical pages 4–6).

The first appellate authority and Tribunal upheld the firm's claim, but the High Court answered three references against it. The Supreme Court's operative years are AY 1968-69 for registration and AYs 1969-70 and 1970-71 for continuation. An earlier recital calls the initial application one for AY 1967-68; that conflict is retained rather than substituted for the referred question and final relief (physical pages 4, 6–7 and 11).

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

02 DISCUSSION BY THE HON'BLE COURT

Statutory registration conditions required compliance, but did not justify mechanically disregarding a reasonably ascertainable allocation. Reading *Kylasa Sarabhaiah, Mandyala Govindu and Parekh Wadilal*, the Court required construction of the deed as a whole with relevant circumstances, including the prescribed application particulars. Mandyala Govindu did not establish that every absence of express loss percentages was fatal; on its facts the allocation remained unascertainable (physical pages 7–9).

Here the minor was admitted only to benefits and bore no losses. The adult partners' proportional capital/profit interests supplied the loss-sharing implication, and the actual registration schedule confirmed it: the 25% profit participant bore 40% of losses and each 12.5% profit participant bore 20%. The schedule was consistent with the deed and legal principles, not a conflicting subsequent reconstruction. The ITO had overlooked it because he treated the agreement as void (physical pages 9–11).

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

03 JUDICIAL DECISION

The three appeals were allowed and the High Court judgments and orders set aside. The referred questions were answered by holding the firm entitled to registration for AY 1968-69 and renewal/continuation for AYs 1969-70 and 1970-71. Each party was to bear its own costs (physical page 11).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Three appeals allowed; registration and continuation upheld for the operative three years; parties bear own costs

Final statutory-registration determination on the reasonably ascertainable shares and consistent application schedule

No permission for a minor to be made a full partner, no rule ignoring unascertainable losses or inconsistencies, and no current filing-regime certification.

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

05 AKHB REVIEW POINT

Read the complete deed, the minor's status and the application schedule together. The usable principle is reasonable ascertainability, not dispensing with statutory particulars. Explain the adult-only loss allocation and whether the application genuinely confirms the instrument; do not turn a consistent schedule in this case into a licence to cure any defective or contradictory agreement.

The old registration regime was replaced by the Finance Act, 1992 from 1 April 1993. The bounded 2011 compilation check, pages 780–781, does not certify present-law requirements or this judgment's later judicial treatment. The Court's reliance on 1922 Act authorities is comparative reasoning; the present appeals themselves concern sections 184/185 of the 1961 Act.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, deed, operative years and three appeals

Source url: [Open cited source](#)

Pdf pages: 1; 4; 6; 7

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: ITO objections, appellate history and reference questions

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Reasonable construction and distinguishing Mandyala Govindu

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Actual schedule, adult loss shares and final relief

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Historical registration regime replaced

Source url: [Open cited source](#)

Pdf pages: 780; 781

Paragraphs: Section 184 and editorial amendment notes 90/96

Source role: bounded statutory compilation and editorial note

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

G.T. Nanavati, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SCOPE OF THE INCOME-TAX ACT ISSUE

Substantive 1961 act: True

Not 1922 only: True

Basis: The present questions and relief concern the expressly identified 1961 Act provisions; references to the 1922 Act are historical statutory/precedent discussion, not the sole basis of this note.

SOURCE & VERIFICATION

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

Identified source rendition: 11 PDF pages; SHA-256

d341fb88577b586bb1e2a5da78fb84bf6acc2d6b119e63fc4918a48d483c3172. Original bytes preserved.

Complete unnumbered judicial text physical pages 4–11/SCR 283–290. Three appeals expressly stated on pages 4 and 7; only one Supreme Court number printed. Editorial material ends on page 4; no adjacent judgment.

[Open cited source rendition](#)

The caption prints only Civil Appeal 1568 (NT)/1981, while the judicial body twice expressly identifies three appeals. The missing companion Supreme Court numbers are not invented.; The initial application recital gives AY 1967-68, but the first reference question and operative relief specify AY 1968-69. The note follows the operative years and preserves the inconsistency.; Four adult partners and one minor beneficiary are distinguished; the source's loose phrase "five partners" does not make the minor a full contractual partner.; The table and narrative are read together: adult loss shares are 40%, 20%, 20%, 20%; the minor has no loss share.; The headnote incorrectly describes a High Court appeal and misstates certain reported-citation volumes; judicial reference history controls this note.

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 subsequent judicial treatment has not been verified. Only the expressly identified bounded historical statutory-compilation comparison was checked. No automatic current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 11](#)

SHA-256: d341fb88577b586bb1e2a5da78fb84bf6acc2d6b119e63fc4918a48d483c3172

[bounded historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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