

Suwalal Anandilal Jain v. Commissioner of Income Tax, Bihar, Ranchi

Tax Reference Case No. 1 of 1993

[1997] 2 SCR 793 | 1997-03-10

Whether the old section 40(b) barred interest on a partner's personal deposits where the partnership interest was held in a representative HUF capacity, before the 1985 explanation took effect.

40(b), historical Explanation 2 | 257

Three-judge bench | A.M. Ahmadi, C.J. | Sujata V. Manohar, J. | K. Venkataswami, J.

Assessment years: 1976-77

Personal-fund interest distinction under an old provision

The direct reference concerned the firm's interest deduction, not every partner payment or the recipient's exemption. Kanji Shivji later affirmed the declaratory interpretation; Rashik Lal's contrary interest remarks were obiter. The headnote's 1978 cutoff is inconsistent with the judicial 1985 date. Later section 40(b) structure differs, and current limits and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

For AY 1976-77, the firm said its partners represented their respective HUFs but had separately advanced their own individual funds. It maintained separate ledgers for the personal loan-creditor accounts and the HUF representative partnership accounts. It sought deduction of interest paid on the personal funds; the judgment supplies no quantified interest amount (physical page 2).

The ITO, Appellate Assistant Commissioner and Tribunal disallowed the claim. Because High Courts differed on section 40(b), the Tribunal referred the question directly to the Supreme Court under section 257. This was not an ordinary appeal from a High Court merits judgment (physical pages 2-3).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court adopted Brij Mohan Das Laxman Das's reasoning on the same issue. The individual and HUF are distinct tax entities, and historical Explanation 2 recognised the different capacities in which the individual could deal with the firm. A person representing an HUF as partner could separately deposit personal funds and receive interest on them. That explanation was declaratory, so the distinction also applied before 1 April 1985 (physical pages 3–5).

The principle was confined to the section 40(b) interest issue. The quoted discussion of partnership law did not erase the source-and-capacity distinction, but nor did it decide all remuneration, commission, capital-account or recipient-tax questions. The Court found no need for further exposition beyond the earlier decision (physical pages 4–5).

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

03 JUDICIAL DECISION

The referred question was answered in favour of the assessee and against Revenue, without costs. The claimed personal-fund interest was not disallowed merely by the historical section 40(b) prohibition in the circumstances stated. The Court made no quantified deduction or tax calculation (physical page 5).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee firm

Direct reference answered for assessee; no costs

Final historical interest/capacity interpretation for AY 1976-77

No blanket deduction for every payment to a partner, no recipient-interest exemption and no conclusion that ledger labels alone prove the funds' ownership.

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

05 AKHB REVIEW POINT

Establish both the capacity of participation in the firm and the ownership of the money advanced. Separate ledgers help evidence the distinction but cannot replace the underlying facts. This authority concerns the firm's interest deduction and does not decide salary or commission paid to a partner or exempt interest in the recipient's hands.

The complete two-page Kanji Shivji order of 25 January 2000 was checked. It expressly affirmed Suwalal's declaratory interpretation and treated Rashik Lal's contrary interest-explanation remarks as obiter because no interest-payment question arose there. This direct later check is not a comprehensive citator review.

The checked 2011 compilation records section 40(b)'s substitution from 1 April 1993, with deed, working-partner and limit provisions and differently numbered explanations. Apply the correct year and payment category; the old Explanation 2 label is not a reliable map to every later version or to the 2025 Act.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, year, separated accounts and direct reference

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Adopted reasoning and present operative answer

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Later express affirmation and interest-obiter qualification

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Complete Court order

Source role: later judicial treatment

4.

Topic: Post-1993 structure and explanation numbering

Source url: [Open cited source](#)

Pdf pages: 298; 299; 300

Paragraphs: Section 40(b), explanations 1–4 and footnote 33

Source role: bounded historical statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K. Venkataswami, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 5 PDF pages; SHA-256

ced77ca1bd25805f6f8e8c1d2a7b5cd6a8e4da6c953601f23f9c34bb211403b0. Original bytes preserved.

Complete judicial text physical pages 2–5/SCR 794–797; direct tax reference, with the quoted earlier appeal disposition distinguished.

Open cited source rendition

The first headnote paragraph on page 1 prints a cutoff of 1 April 1978, while its held passage and the judicial reasoning use 1 April 1985. The latter is the relevant explanatory-amendment date.; The embedded Brij Mohan quotation ends by allowing that earlier appeal and setting aside its High Court judgment. The present operative order instead answers a section 257 reference; the two dispositions must not be conflated.; The case is an assessee-firm deduction dispute despite the short personal-name caption. No separate individual or HUF assessment is decided.; The report gives no interest sum, rate, personal-loan amount or new computation. None is inferred.; The 2011 explanation numbering and post-1993 statutory conditions differ from the historical provision considered. No current deduction limit or automatic statutory carryover is certified.

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 unverified. Kanji Shivji's entire two-page order was directly checked for the specific affirmation described; the 2011 statutory comparison is limited to the stated pages.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 5

SHA-256: ced77ca1bd25805f6f8e8c1d2a7b5cd6a8e4da6c953601f23f9c34bb211403b0

later reported judgment direct treatment - PDF pages: 2

SHA-256: df2a5146f975242a88e3ba35b224db954860eb2f3fee36628f7c2fdb2a9b3ae

official department hosted historical statutory compilation - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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