

Commissioner of Income Tax, Kanpur v. Nitya Nand Devkinandan

Civil Appeal Nos. 111–111A of 1982

[1997] Supp. 1 SCR 575 | 1997-07-08

Whether the Income Tax Officer's certificate continuing a firm's registration under historical section 185(4) was an order revisable under section 263, and whether a mismatch between Form 11-A and the deed justified cancellation.

184(7) (historical registration continuance) | 185(3) and 185(4) (historical) | 263 | 246(j) (historical appellate context) | 261

Two-judge bench | S.C. Agrawal, J. | D.P. Wadhwa, J.

Assessment years: 1972-73, 1973-74

Revisable certificate; cancellation merits remitted

Revenue won only the revisability question. The Supreme Court remitted the form/deed discrepancy issue and did not finally uphold cancellation. The headnote's Chekka Ayyanna overruling label is unsupported by the judicial discussion and must not be propagated. The old firm-registration provisions were later replaced; comprehensive later treatment, post-remand outcome and present-law mapping remain unverified.

01 FACTS OF THE CASE

The firm obtained registration for AY 1967-68 and continued to be treated as registered through AY 1973-74. Its application of 3 November 1966 stated partners' shares differently from the partnership deed. The Commissioner said the profit distributions did not conform to Form 11-A; the firm said the form contained a mistake and the profits had consistently been divided according to the deed (physical pages 4–5).

The Commissioner cancelled continuance for AYs 1972-73 and 1973-74 under section 263 and directed fresh assessments. He did not propose action for earlier years because the relevant actions were beyond the then two-year limitation. The Tribunal held both that no revisable order existed and that the form discrepancy did not render the registration erroneous where profits followed the deed. The Allahabad High Court's judgment of 5 November 1980 accepted the no-order view and left the separate merits question unanswered as academic. Revenue appealed by certificate (physical pages 3–6).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished the old 1922-Act requirement of annual renewal applications from the 1961-Act continuance scheme. Dispensing with a fresh annual application did not eliminate the Income Tax Officer's decision. Under historical sections 184(7) and 185(3)–(4), the officer had to examine the declaration, determine compliance and either record the continuance certificate or, after the prescribed defect-intimation and rectification opportunity, make the adverse order contemplated by section 185(3) (physical pages 6–8).

The certificate had a bearing on the firm's tax liability and could prejudice Revenue if wrongly recorded. The Court therefore treated the decision embodied in the certificate as an order capable of revision under section 263, subject to the other statutory conditions. It agreed with Jagadhri Electric Supply & Industrial Co. The earlier Ashwani Kumar case concerned section 185(3), not the present section 185(4) question, and did not support the High Court's conclusion. The judicial discussion recounts the High Court's rejection of the supporting Chekka Ayyanna reasoning; it does not expressly overrule Chekka Ayyanna despite the headnote label (physical pages 9–11).

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

03 JUDICIAL DECISION

The Court allowed Revenue's appeals, set aside the High Court judgment and answered question 1 in the negative, in favour of Revenue: the certificate was a revisable order. It remitted question 2, whether the form/deed discrepancy justified cancellation on the stated facts, to the High Court. There was no order as to costs (physical page 11).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on revisional jurisdiction; cancellation merits unresolved

Appeals allowed; question 1 answered for Revenue; question 2 remitted to the High Court; no costs

Final on the existence of a revisable order; no final Supreme Court answer on substantive cancellation

No holding that every erroneous form entry warrants cancellation, no final tax computation and no revision of the earlier time-barred years.

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

05 AKHB REVIEW POINT

Separate the existence of a revisable order from whether it is actually erroneous and prejudicial to Revenue. A statutory certificate can embody an adjudicatory decision even if it is short or formally endorsed on an instrument. That does not dispense with section 263's remaining requirements, nor does it resolve the form/deed mismatch that the Court remitted.

For this case, reconcile the deed, Form 11-A, continuance declarations and actual profit allocation before addressing the unresolved merits issue. Do not describe the appeal result as a final restoration of the Commissioner's cancellation. No post-remand disposition has been verified.

The bounded 2011 statutory check confirms that the Finance Act, 1992 replaced the former sections 184–186 with effect from 1 April 1993; later section 185 was again substituted from 1 April 2004. These later provisions are materially different from the historical registration-certificate machinery considered here. The judgment does not certify present procedure, current section 263 conditions or a 2025-Act equivalent.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and two referred questions

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Facts, limitation and distinct Tribunal grounds

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Historical scheme and defect-rectification procedure

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Precedent-label conflict and revisability reasoning

Source url: [Open cited source](#)

Pdf pages: 3; 9; 10; 11

Paragraphs: Editorial headnote at physical page 3; unnumbered judicial text at physical pages 9–11

Source role: editorial headnote and judicial text

5.

Topic: Actual disposition and merits remand

Source url: [Open cited source](#)

Pdf pages: 11

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Replacement of former firm-registration provisions

Source url: [Open cited source](#)

Pdf pages: 780; 781

Paragraphs: Sections 184–185 and footnotes 90, 94–96

Source role: bounded historical statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.C. Agrawal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

ASSESSMENT-YEAR CONTEXT AND LIMITS

Initial registration was for AY 1967-68; continuance through AY 1973-74 is background. Only AYs 1972-73 and 1973-74 were the challenged revision years.

SOURCE & VERIFICATION

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

Identified source rendition: 11 PDF pages; SHA-256

8f3e3c0942728521fec18aed1abc5cbc05e6f7df84a1929eb829a9c7472dbf39. Original bytes preserved.

Judicial text begins at physical page 3/SCR 577 with S.C. Agrawal J. and ends at physical page 11/SCR 585. Headnote pages 1–3 kept separate.

[Open cited source rendition](#)

The scanned cover correctly reads Nitya Nand Devkinandan; ingestion OCR misreads Nand as NANO. The displayed case name follows the image.; The source's case-number line reads Civil Appeal Nos. 111–111A of 1982; the ingestion metadata supplies only lead appeal 111.; Physical page 3's editorial headnote labels Chekka Ayyanna overruled. Pages 9–11 of the judicial text instead quote its supporting revisability position, recount the Allahabad High Court's disagreement and adopt the matching Jagadhri view. No express Supreme Court overruling of Chekka Ayyanna appears in the judicial reasons; the headnote label is not used as a treatment finding; Question 2 remains remitted. The Commissioner's factual conclusion, the firm's explanation and the Tribunal's merits finding are distinct; none is converted into a final Supreme Court cancellation holding.; The then two-year limit explains exclusion of earlier years in this litigation; the note does not state a present limitation rule.

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. Any actual bounded later-judgment or official-hosted historical statutory check is expressly identified.

IDENTIFIED SOURCE LINKS

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

SHA-256: 8f3e3c0942728521fec18aed1abc5cbc05e6f7df84a1929eb829a9c7472dbf39

[official department hosted historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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