

ANDHRA PRADESH HIGH COURT

Commissioner of Income-Tax

Vs

G. Parthasarathy Naidu & Sons

(C Kondaiah, CJ. M Rao and P Choudary, JJ.)

30.08.1979

ORDER

C. Kondaiah, C.J.

1. This is a reference under Section 256(1) of the I.T. Act of 1961, at the instance of the CIT for the opinion of this court on the following question :

"Whether, on the facts and in the circumstances of the case, M/s. G. Parthasarathy Naidu and Sons and M/s. Sri Lakshmi Oil and Flour Mills can be treated as two separate firms and distinct assessable entities ?"

2. Sri P. Rama Rao, the learned counsel for the revenue, states at the outset that this reference must be answered in favour of the revenue in view of the decision of a Division Bench of this court in *Addl. CIT v. Venkata Narasimha Rao & Co*¹. The aforesaid decision is the basis for the decision of the Tribunal in this case. The Tribunal's view has been set aside by a Division Bench of this court in the aforesaid case. Sri Dasaratharama Reddy, the learned counsel for the assessee, opposes the claim of Mr. Rama Rao, contending, inter alia, that the decision of the Division Bench in the case of *Addl. CIT v. Venkata Narasimha Rao & Co*, is a wrong decision and, in any event, it is no longer good law in view of the Full Bench decision of this court in *Addl. CIT v. Visakha Flour Mills*² on this aspect, although it was overruled by a later Fuller Bench of five judges in the case of *Addl. CIT v. Vinayaka Cinema*³. Sri Rama Rao replied that the Full Bench in *Visakha Flour Mills*⁴ did not consider the question now raised in this referred case and the decision of the Division Bench of this court in *Addl. CIT v. Venkata Narasimha Rao & Co*⁵. is binding on the Division Bench. We learn that a number of cases of this type have arisen before the Tribunal and we prefer to constitute a Full Bench to obtain an authoritative pronouncement on this question of law. We, therefore, refer the case to a Full Bench.

Case Note:

Direct Taxation assessment Section 256 (1) of Income Tax Act, 1961 whether firm A and firm B can be treated as two separate firms and distinct assessable entities partners in both firms same nature of business of both firms different clause under deed of partnership showed that intention

of partners in constituting firm B was to make it a separate and distinct firm from A both firms constituted under two separate deeds of partnership no inter-lacing or inter-mixing found between two firms held, firms to be treated as two different firms and separate entities for purpose of assessment and for Act.

JUDGMENT

C. Kondaiah, C.J.

3. This is a reference under Section 256(1) of the Income-tax Act (hereinafter referred to as "the Act") by the Income-tax Appellate Tribunal, Hyderabad Bench, for the opinion of this court on the following question of law :

"Whether, on the facts and in the circumstances of the case, M/s. G. Parthasarathy Naidu and Sons and M/s. Sri Lakshmi Oil and Flour Mills can be treated as two separate firms and distinct assessable entities ?"

4. The admitted material facts as disclosed in the statement of case may be noticed : G. Parthasarathy Naidu, the karta of the HUF, consisting of himself and his three sons, viz., Vara Prasada Rao, Chandrasekhara Rao and Venkateswara Rao (minor), was a partner with a 5/16ths share in M/s. Gadireddi Peda Narasimhulu Naidu & Sons, Naidupet. The respondent-assessee is a registered firm. On September 30, 1968, there was a partition in the joint family of Parthasarathy Naidu. As per the partition agreement entered into on that day 5/16ths partnership share in M/s. G. P. N. N. & Sons was agreed to be shared by a sub-partnership comprising of the four coparceners. Then the assessee-firm was constituted under a deed of partnership dated October 1, 1968, whereunder the profits were agreed to be shared at 1/4th each and the loss was agreed to be shared equally by the three major partners. On November 26, 1968, another partnership in the name and style of M/s. Sri Lakshmi Oil and Flour Mills, Proprietors G. Parthasarathy Naidu & Sons, was formed by the same divided coparceners for the purpose of erecting an oil mill and for carrying on oil business. The minor partner, Venkateswara Rao, was admitted to the benefits of the partnership carrying 25% to each of the three major partners and the minor partner. In case of loss Parthasarathy Naidu, Varaprasada Rao and Chandrasekhara Rao would share the net loss at 50%, 25% and 25% respectively. In para. 15 of the partnership deed dated March 25, 1970, it was stated that the business of M/s. Sri Lakshmi Oil and Flour Mills shall not be deemed as part and parcel of the sub-partnership constituted under the partnership deed dated October 1, 1968. Fresh deeds of partnership were executed on March 11, 1971, as the minor partner, Venkateswara Rao, had become a major and he had elected to become and remain as a full-fledged partner. For the assessment year 1971-72, the assessee-firm filed a return admitting Rs. 57,340 as the total income from the business. Another return was filed in the name of M/s. Sri Lakshmi Oil and Flour Mills declaring a total income of Rs. 35,000.

5. The ITO had clubbed the income of the two firms and assessed the assessee-firm on the ground that the constitution and the ownership of the two businesses were one and the same. For the assessment year 1970-71 also, the ITO had clubbed the income of M/s. Sri Lakshmi Oil and Flour Mills with that of the assessee-firm and assessed the entire income in the hands of the assessee. The appeals by the assessee to the AAC were unsuccessful. The further appeals by the assessee to the Income-tax Appellate Tribunal were allowed holding that the profit and loss

sharing ratio of the two firms cannot be said to be the same since in the case of loss, differing sharing-ratios were provided, that the businesses were different, that there was no inter-lacing or inter-mixing between the two firms and that, therefore, there was no justification for including the profits of M/s. Sri Lakshmi Oil and Flour Mills in the income of the assessee-firm. Hence, this reference at the instance of the CIT.

6. The Division Bench, before which the referred case came up for hearing, had referred the matter to a Full Bench to obtain an authoritative pronouncement on this question of law, which is stated to have arisen in a number of cases before the tax authorities and the Tribunal, as the correctness of the decision of the Division Bench in Addl. *CIT v. Venkata Narasimha Rao and Co^o*. has been disputed. That is how this referred case has come up before us.

7. The sum and substance of the submission of Sri P. Rama Rao, learned counsel for the revenue, is that a firm, although treated as a unit for the purpose of taxation, is not a separate legal or juristic personality under the I.T. Act, and, therefore, the firm has no legal existence independently of its partners and that when there are two firms consisting of the same partners, in the eye of law they must be considered to be only one firm and, therefore, the view of the Tribunal in treating the assessee-firm and the other firm as separate entities is illegal. He elaborates this contention by referring to the meaning of the expressions "firm", "partner" and "partnership" being statutorily imported into the I.T. Act from the Indian Partnership Act. According to the learned counsel, wherever the I.T. Act contemplated to make special provisions regarding the mode of assessment and other matters associated with the same, a special provision has been specifically made and only to that extent such a special provision prevails over the provisions of the Partnership Act and, in all other respects, the provisions of the Partnership Act are applicable.

8. This claim of the revenue is opposed by Mr. Dasaratharama Reddy, learned counsel for the assessee, contending, inter alia, that there is no prohibition in law to have more than one partnership by the same partners, that the firm is a legal personality under the I.T. Act, that, in any event, the assessee-firm and M/s. Sri Lakshmi Oil and Flour Mills are two separate and independent registered firms having different businesses, that the shares of the partners also are not exactly the same, that there was no inter-lacing, inter-mixing, etc., between the two firms and that, therefore, there was no justification for clubbing the income of the other firm with that of the assessee-firm.

9. The answer to the question depends upon the law governing a firm under the I.T. Act. We may usefully examine the question, whether a firm under the Act is a separate and independent juristic personality. True, as contended by Sri P. Rama Rao, Section 2(23) of the Act defines the expressions "firm", "partner" and "partnership" as indicated in the Partnership Act. A close and careful reading of the provisions of the Partnership Act indicates that "partnership" or "firm" as such is not a separate, independent entity or person in law but is merely an association or combination of persons who agree to carry on business in partnership with a motive to share the profits and some persons acting and conducting for and on behalf of the others. It is also well settled that a firm as such is not entitled to enter into a partnership with another firm or individuals and it has no legal personality apart from the partners. In other words, a firm under the partnership law, be it English or Indian, is only a collective name for individuals carrying on business in partnership though the mercantile usage recognised the firm as a separate distinct

person. But under the Act Section 4 charges the total income of the previous year of every person to income-tax at the rate or rates specified in the Finance Act applicable to the assessment year in question. The term "person" is defined under Section 2(31) thus:

" Person ' includes-

- (i) an individual,
- (ii) a Hindu undivided family,
- (iii) a company,
- (iv) a firm,
- (v) an association of persons or a body of individuals, whether incorporated or not,
- (vi) a local authority, and
- (vii) every artificial juridical person, not falling within any of the preceding sub-clauses."

10. Hence, a firm under the Act is, unlike under the Partnership Act, a separate and distinct legal entity chargeable to income-tax and, therefore, it is a taxable unit. It has a separate personality and existence of its own de hors the partners.

11. As observed by the Supreme Court in *CIT v. A.W. Figgies and Company* :

"A firm can be charged as a distinct assessable entity as distinct from its partners who can also be assessed individually.....The partners of the firm are distinct assessable entities, while the firm as such is a separate and distinct unit for purposes of assessment-Sections 26, 48 and 55 of the Act fully bear out this position. These provisions of the Act go to show that the technical view of the nature of a partnership, under English law or Indian law, cannot be taken in applying the law of income-tax."

12. In *Bhagwanji Morarji Goculdas v. Alembic Chemical Works Co. Ltd*⁷. it was ruled by the Privy Council that the Indian Partnership Act attributed personality to a partnership which was more in accordance with the law of Scotland rather than English law as it went beyond the English Partnership Act, 1890. English common law does not recognise a firm as an entity distinct from the members composing it in contrast to the law in Scotland which recognised separate full personality to the firm apart from its partners.

13. This view has not been adopted by the Supreme Court in *Dulichand Laxminarayan v. CIT* , wherein the learned judge Das C. J., while referring to the Scottish, English and Indian law under the Partnership Act, observed at page 541 :

"It is clear from the foregoing discussion that the law, English as well as Indian, has, for some specific purposes, some of which are referred to above, relaxed its rigid notions and extended a limited personality to a firm. Nevertheless, the general concept of partnership, firmly established in both systems of law, still is that a firm is not an entity or 'person' in law but is merely an association of individuals and a firm name is only a collective name of those individuals who constitute the firm. In other words, a firm name is merely an expression, only a compendious mode of designating the persons who have agreed to carry on business in partnership. According to the principles of English jurisprudence, which we have adopted, for the purposes of determining legal rights 'there is no such thing as a firm known to the law' as was said by James L.J., in *Ex parte Corbett*: In re

Shand [1880] LR 14 Ch 122, 126 (CA). In these circumstances, to import the definition of the word 'person' occurring in Section 3(42) of the General Clauses Act, 1897, into Section 4 of the Indian Partnership Act will, according to lawyers, English or Indian, be totally repugnant to the subject of partnership law as they know and understand it to be. It is in this view of the matter that it has been consistently held in this country that a firm as such is not entitled to enter into partnership with another firm or individuals."

14. We may usefully refer in this context to the following passage in the judgment of the Supreme Court in *State of Punjab v. Jullundur Vegetables Syndicate*⁸ wherein the question as to whether a firm is a separate assessable entity for the purpose of the East Punjab General Sales Tax Act or whether it is only a compendious term used to denote a group of partners, fell for decision. The learned judge, Subba Rao J. (as he then was), speaking for the court, ruled at page 331 :

"...a firm has been given the same status under the Act as is given to it under the Income-tax Act. Under Section 3 of the Income-tax Act also a 'firm' is treated as a unit of assessment and as a distinct assessable entity. Though under the partnership law a firm is not a legal entity but only consists of individual partners for the time being, for tax law, income-tax law as well as sales tax, it is a legal entity. If that be so, on dissolution, the firm ceases to be a legal entity."

15. In *Kapurchand Shrimal v. TRO* , it was held that a HUF being a separate taxable entity distinct from the individual members constituting it, the TRO cannot initiate recovery proceedings against the manager of the HUF for his arrest and detention as the karta or manager of the family was not a defaulter although he is competent to represent the HUF against which the proceedings for assessment and recovery of tax had been taken by the department.

16. The view taken by the Supreme Court in the aforesaid decisions has been reiterated in a recent decision in *Commr. of S.T. v. Radhakisan* , which arose under the M.P. Sales Tax Act, 1958.

17. The Supreme Court in *CIT v. R.M. Chidambaram Pillai* held that under Section 3 of the Partnership Act a firm is not a legal person but a relationship among persons. It followed the view expressed by the same court in *Dulichand Laxminarayan's case* [1956] 29 ITR 535. Therein, the salary stipulated to be paid to a partner from a firm was held, in strict law, to be the mode of division of the firm's profits as no person can be his own servant in law since a contract of service postulates two different persons.

18. A Full Bench of the Kerala High Court in *ITO v. C.V. George* held that any liability for income-tax imposed on a firm as such under the I.T. Act cannot be treated as the liability of the individual partners of the firm arising under the Act by importing the general principles of the partnership law. It relied upon the decision of the Supreme Court in *ITO v. Radha Kishan* , wherein it was ruled that "the liability to pay income-tax is statutory ; it does not arise out of any contract, and its incidence must be determined by the statute". The firm under the Act both for the purposes of assessment and for recovery of tax is a separate and distinct entity having juristic personality unlike under the Indian Partnership Act.

19. In this view, we are unable to agree with the view expressed by the Division Bench in Addl. CIT v. Venkata Narasimha Rao & Co. that a firm does not assume a legal personality under the Act. The following is the view expressed by the Division Bench (p. 32):

"That a firm is a distinct assessable entity, distinct even from its partners for the purposes of assessment to tax, does not make it a legal personality, a personality which is denied to it under the partnership law and which continues to be denied to it under the Income-tax Act in view of Section 2(23) of the latter Act. The general concept of a firm remains unchanged by reason of the taxability of the firm as a unit just as the general concept is not altered by the capacity to sue or to be sued in the name of the firm as provided in Order XXX, Rule 1, Civil Procedure Code. If Parliament intended that a firm should be treated as a legal personality under the Income-tax Act it was wholly unnecessary for Parliament to have defined 'firm' by reference to the Indian Partnership Act. What we wish to emphasise is that a firm, which may be a taxable entity, does not on that account acquire or become endowed with the characteristics of a legal personality which it does not in law possess."

20. We are unable to agree with the aforesaid view that a firm under the Act is not a legal personality and the general concept of the firm remains unchanged by reason of the taxability of the firm as a unit. True, as pointed out earlier, under the Indian Partnership Act or under the English common law, a firm is not a full legal personality. But it has now been recognised that it has some personality and for the purposes of income-tax and sales tax, a firm is a separate and distinct legal entity. Therefore, the provisions of the Partnership Act cannot be applied in this regard to the I.T. Act.

21. That apart, the definition of "person" under Section 2(31) of the Act includes a firm and six other categories of assessee or units of assessment under the present Act. It is pertinent to notice that the definition of "person" in Section 2(9) of the 1922 Act did not exhaust the various assessable units whereas Section 2(31) of the present Act includes all the seven categories of assessee. This definition also is inclusive but not exhaustive.

22. This brings us to examine the question whether in law there can be two firms by the same partners. The decision of the Division Bench of this court in Addl. CIT v. Venkata Navasimha Rao and Co. [1976] 104 ITR 28(Suupra), on which strong reliance has been placed by Sri P. Rama Rao, in support of his plea that there can be no two lawful firms consisting exactly of the same partners and there can be only one firm in the eye of law if the same partners carry on the same or different businesses in different names, is based on the following observations of Beaumont C.J. in *Vissonji Sons and Co. v. CIT*⁹ "In law a firm has no existence independently of its partners, and if there are two firms consisting of exactly the same partners, the real position in law is that there is only one firm. It may carry on separate businesses, and may carry on those businesses in different names but in fact there is only one firm in law. I think there is a certain amount of confusion, if I may say so, in the case arising from the failure to appreciate that at the material dates, there was in law only one firm."

23. The learned judges also gave the illustration of Arun and Arjun carrying on business at Hyderabad and Bombay in pulses and textiles respectively and if the revenue discovers that there are no two such individuals as Arun and Arjun but the same individual is carrying on both the businesses under different names, there can be no difficulty in holding that the incomes of the

two businesses must be aggregated. To that extent we have no quarrel but we are in entire agreement with that view, as the total income of the individual assessee earned by him at all places in any activity, business, profession or vocation has invariably to be clubbed in his hands for the purpose of his assessment. The same principles cannot be applied to a firm on the ground that the same combination of identical persons carry on two businesses under different names. Such application of the principles is not permissible in view of the difference between an individual and a firm, though both of them are separate entities for purposes of assessment. An individual cannot be equated to a firm or an association of persons. The observations of Beaumont C. J., speaking for the court consisting of himself and Chagla J. (as he then was), do not lay down the correct legal position. That apart, these observations are obiter as pointed out by the very learned judge, Chagla C.J., who was a party to *Vissonji Sons and Co. v. CIT* [1946] 14 ITR 272 (Bom) (Supra), in *Jesingbhai Ujamshi v. CIT*¹⁰ wherein it was held that, in law, common partners could constitute two separate firms in respect of different businesses for the purpose of income-tax on the ground that a firm is recognised by the I.T. Act as an assessee as much as an individual or a joint Hindu family. While referring to the observations of Beaumont C.J. in *Vissonji Sons and Co. v. CIT*, the learned judge observed at page 27 : "With great respect to the learned Chief Justice, the actual question that he had to consider in that reference was whether a certain item which the assessee claimed as a bad debt was a bad debt or ' not, and the learned Chief Justice disposed of that reference by coming to the conclusion that this question was really a question of fact and the only question of law that arose was whether there was sufficient evidence to justify the finding of fact by the Tribunal. Therefore, this particular observation on which the Tribunal has relied was not called for the determination of the reference and, therefore, it must be looked upon as pure obiter. "

24. Reference may be made to the decision of a Special Bench of the Calcutta High Court in *In re Martin & Co.*, AIR 1929 Cal 753, 754, wherein Rankin C.J., who spoke for the Bench, observed: "The proposition that the same persons in the same shares cannot for income-tax purposes be partners of two entirely separate firms is a highly abstract proposition. It may or may not be correct but I am not prepared as at present advised to proceed upon so very general a principle without a careful enquiry into the concrete case and into the matters above mentioned. It may turn out that the case depends on the question of fact whether the two firms were entirely separate--a question of fact including the question of intention. It is necessary that we should know whether in substance and in truth the partners as part of the business of Martin and Company bought up certain assets (in which case the fact that these assets went by a different name would have no importance whatever) or whether, on the other hand, it was an entirely separate venture not intended to be any part of the business of Martin and Company or to have any connection with Martin and Company."

25. The aforesaid view has been followed by the Bombay High Court in *Jeshingbhai Ujamshi v. CIT*¹¹

26. In *Jesingbhai Ujamshi v. CIT* [1950] 18 ITR 23(Supra), the Bombay High Court differed from the view taken by the Tribunal on the application of the civil law under the Partnership Act and remitted the case to the Tribunal to determine whether the two firms carried on the same business or separate businesses keeping in view that a firm was a taxable unit and a legal entity under the I.T. Act though it was not under the ordinary civil law. The Tribunal, on a consideration of the entire material, came to the conclusion that the two firms at Ahmedabad and

Bhavanagar constitute only one business on the ground that the owners of the two firms are the same and, therefore, in law they constitute one firm and not two firms. The High Court held that there was evidence to show that there were two distinct firms in existence, that it was not open to the Tribunal to find that there was only one firm, and that in view of the finding of the Tribunal that there was no inter-lacing or inter-mixing of the Bhavanagar business with the Ahmedabad business, the, assessment of the firms should be distinct and separate.

27. To the same effect is the decision of the Punjab and Haryana High Court in *R.N. Oswal Hosiery and Mahabir Woollen Mills v. CIT*¹², wherein it was held that two partnership firms having common partners with identical shares are, as a matter of law, not one but two different assessable units and whether there is inter-lacing or inter-locking between the two firms so as to treat them as one unit is one of fact. The Punjab and Haryana High Court followed the view expressed by the Bombay High Court in *Jesingbhai Ujamshi v. CIT* [1950] 18 ITR 23(Supra) and the Calcutta High Court in *In re Martin & Co.*, AIR 1929 Cal 753 [SB].

28. Our earlier Division Bench in the case of *Venkata Narasimha Rao & Co.* [1976] 104 ITR 28 overlooked the fact that the question fell for decision only for the purpose of computing the assessment of the partnership or partnerships under the Act. Hence, the only purpose of determining the question whether a partnership is a separate and independent entity or not was for computing the income of the partnership in question, and not for any other purpose in general law. Hence, the legal principles laid down in that case are not correct, although the decision may be justified on the facts of that case as there was inter-lacing and inter-locking.

29. From the aforesaid discussion the following principles emerge :

(1) The concept of partnership law is that a firm is not an entity or a person in law but only a compendious mode of designating persons who have agreed to carry on the business in partnership.

(2) A firm as such is not entitled to enter into partnership with another firm or individual as the definition of "person" in Section 3(42) of the General Clauses Act, 1897, cannot be imported into Section 4 of the Indian Partnership Act.

(3) The law, English as well as Indian, has for some specific purposes, relaxed its rigid notions and extended a limited personality to a firm.

(4) Under the income-tax law a firm is an independent and distinct juristic person for the purpose of assessment as well as for recovery of tax as it is a "person" within the meaning of Section 2(31) of the Act, having its own entity and personality. It is also a separate entity under the sales tax law.

(5) It is well settled that it is open to any person to arrange his or its affairs by adopting a legal device to reduce his or its tax liability to the minimum permissible under the law and such a device cannot be equated to an attempt to evade tax as long as his or its action is consistent but not contrary to law (See *CIT v. Sivakasi Match Exporting Co.*).

(6) In law, there is no prohibition for the creation or existence of two or more separate firms or partnerships by the same partners.

(7) Whether a firm is genuine or bogus or benami is a pure question of fact. But whether two or more partnerships or firms constituted under different deeds of partnership are, in reality, only one partnership or not is a mixed question of fact and law.

(8) The prime guideline to determine this latter question is the cumulative effect or the totality of

all the material factors relating to the object and intendment of the partnerships and businesses, their nature, character and identity, coupled with the factum or otherwise of inter-lacing and interlocking of funds between the two firms.

(9) The very question as to whether there was really one partnership or two different assessable entities being two separate distinct partnerships unconnected with each other, has to be determined by the I.T. authorities for the purpose of computing the assessment under the I.T. Act but not under the general law governed by the provisions of the Partnership Act.

(10) The finding of the Tribunal about the object and intendment of the partnerships and the businesses and the factum or otherwise of the inter-lacing and inter-locking of the funds between the two partnerships is a question of fact and such finding would be binding on the High Court in a reference unless there is no material in support of it.

30. We may at this stage recapitulate the facts found or admitted by the Tribunal in the case on hand. Admittedly, the partners in both the firms are the same. Admittedly, each of the partners in both the firms shared 1/4 of the profit. However, the three major partners in the assessee-firm shared equally 1/3 of the loss, if any, whereas in the second firm, M/s. Sri Lakshmi Oil and Flour Mills, the loss was shared by G. Parthasarathy Naidu, Varaprasada Rao and Chandrasekhara Rao at half, 1/4 and 1/4 respectively. The business of the assessee-firm was to deal in pulses, whereas the business of M/s. Sri Lakshmi Oil and Flour Mills was to manufacture and sell groundnut oil and other oils, oil cake and to purchase and sell groundnut, kernel, oils, oil cake and to work the oil mill and the flour mill. Paragraph 15 of the partnership deed of M/s. Sri Lakshmi Oil and Flour Mills makes it specific that the business of this partnership shall not be deemed as part and parcel of the assessee-partnership constituted under the deed of partnership dated October 1, 1968. This clause establishes that the intention of the partners in constituting the second firm was to make it a separate, distinct firm unconnected with the assessee-firm which had already come into existence on October 1, 1968. The registration under the I.T. Act granted by the ITO to M/s. Sri Lakshmi Oil and Flour Mills was not cancelled and the same was allowed to continue as a registered firm. The two firms had been constituted under two separate deeds of partnership. There was no inter-lacing or inter-mixing between the two firms. The Tribunal found that there was no justification for including the profit of Rs. 5,500 belonging to M/s. Sri Lakshmi Oil and Flour Mills in the income of the assessee-firm and consequently deleted the same.

31. Applying the aforesaid principles to the facts and circumstances found by the Tribunal, we must hold that the two firms in the instant case are not, in reality, one firm but two different legal entities for the purpose of assessment.

32. For all the reasons stated above, our answer is in the affirmative and in favour of the assessee holding that M/s. G. Parthasarathy Naidu Sons and M/s. Sri Lakshmi Oil and Flour Mills can be treated as two separate firms and distinct and separate entities for the purpose of the Act. There shall be no order as to costs.

Cases Referred.

1[1976] 104 ITR 28

2[1977] 108 ITR 466

32[1977] 110 ITR 468

4[1977] 108 ITR 466 [FB]

5[1976] 104 ITR 28

6[1976] 104 ITR 28
7[1948] 18 Comp Cas 205; AIR 1948 PC 100
8[1966] 17 STC 326
9[1946] 14 ITR 272 (Bom) at page 275
10[1950] 18 ITR 23 (Bom)
11[1955] 28 ITR 454
12[1968] 70 ITR 843