ANDHRA PRADESH HIGH COURT

Commissioner of Income-Tax

Vs

Nalli Venkataramana

(M Jagannadha Rao and S Reddy,JJ.)

18.04.1983

JUDGMENT

Jagannadha Rao, J.

1. These two references at the instance of the Commissioner of Income-tax, Andhra Pradesh, raise certain common questions of law and can be disposed of together.

2. We shall first advert to the facts mentioned in R.C. No. 241/80. The assessee is a firm consisting of 11 partners constituted by a partnership deed November 12, 1973, with effect from October 1, 1973. The partnership was to remain in force for one year up to September 30,1974. One of the partners of the assessee-firm was the successful bidder in the auction conducted under the A.P. Excise (Lease of right to sell liquor in retail) Rules, 1969 (hereinafter called "the Rules"), which were framed under the A.P. Excise Act, 1968 (hereinafter called "the Act"). As per the preamble of the partnership deed the said successful bidder who obtained the license to carry on the business of buying in bulk and selling in retail, required manpower to assist him in the conduct of the said business and also to contribute the required capital. Hence the partnership firm was constituted. Clause 2 of the partnership deed says that the business of the firm shall be the sharing of the profit or loss arising out of the arrack business conducted at Salipet under the license held by the aforesaid successful bidder. Clause 4 of the said deed mentions the capital that was contributed by the partners. The successful bidder was not required to contribute any capital. Clause 6 of the deed states that the first partner, viz., the aforesaid successful bidder, will have a share of 1% of the net profits and the remaining 99% of the profit or loss shall be divided between the partners in the ratio of their capital contribution. It, therefore, follows that the first partner is entitled to one per cent of the profit but was not to suffer any loss because the ratio of his capital contribution was "nil". Clause 8 is an important clause. It lays down that the first partner, viz., the successful bidder, in whose name the license stood, should lift the arrack and conduct the sale with the assistance of the other partners strictly complying with the provisions of the Excise Act. It further says that the other partners shall assist the first partner in the conduct of the business and the management of the shop. They were also required to assist the first partner in the matter of the business. The first partner was also to supervise the entire business carried on by the assessee-firm. It may be stated that as many as 32 other partnership-firms were formed on

the above lines with the same successful bidder as the first partner in every case but with varying number of other partners. The different partnership related to different shops.

3. The assessee-firm applied for registration under s. 185 of the I.T. Act, 1961, and filed an application in Form No. 11. The ITO took a sworn statement from the successful bidder on December 18, 1976, and came to the conclusion that the firm was not a genuine one. He also observed that the assessee-firm was formed illegally and so it was void ab into. He referred to r. 19(1) of the Rules which prohibits the transfer of the license by the licensee to any other person. Then he referred to r. 19(2) of the Rules which states that no licensee can include or exclude any partner except with the previous permission of the licensing authority. He observed that the formation of a partnership was no doubt allowed under the rules for doing the aforesaid business but that it was necessary for the partners to disclose their partnership before the license was issued. Since the existence of the firm was not disclosed to the licensing authority the license must be deemed to have been issued only to the successful bidder in whose name the license stood. He also referred to s. 15 of the Excise Act which states that no person shall or buy any intoxicant except under the authority and in accordance with the terms and conditions of a license granted in this behalf. The ITO was of the opinion that the partnership entered into for the purpose of conducting a business in arrack or toddy on a license granted only to one of the partners was void ab into because such a partnership either involves a transfer of a license which is prohibited under r. 19 or because s. 15 was being violated by the unlicensed partners who sell the arrack or toddy.

4. Hence in either case the assessee-firm was engaged in illegal business and so it is void in the eye of law. In that view of the matter he refused the assessee's claim for registration under s. 185 of the I.T. Act.

5. The assessee appealed to the AAC. He came to the conclusion that the firm was a genuine firm and that the ITO should have given a chance to the assessee to correct the discrepancy in the profit sharing ratio mentioned in the partnership deed and the Form No. 11 application. Coming to the legality of the partnership the AAC held that the rulings relied upon by the ITO did not apply to the facts of the case. He placed reliance among other cases, on the judgments of the Supreme Court in Umacharan Shah and Bros. v. CIT and *Jer & Co. v. CIT*[1] and came to the conclusion that the formation of a partnership by the licensee was not prohibited, even though the license was in the name of one of the partners. He also pointed out that in contrast to s. 15 and r. 19 of the Rules there were other provisions in the A.P. Denatured Spirit and Denatured Spirituous Preparation Rules, 1970, Condition No. 9, under r. 5(2) of the A.P. Indian Liquor and (Storage in Bond) Rules, 1969, and r. 39 of the A.P. Foreign Liquor and Indian Liquor Rules, 1970, prohibiting the formation of a partnership whereas there was no such prohibition in s. 15 or r. 19 of the Arrack and Toddy Rules, 1969, with which we are concerned. He found that the intention of the partners was that the sale and purchase of liquor should always be carried on in a lawful manner, i.e., by or on behalf of the licensee alone. He, therefore, held that the firm was not void ab initio and he directed the ITO to grant registration to the assessee-firm :"The Department appealed to the Income-tax Appellate Tribunal. Various rulings were relied upon by the Department as well as the assessee before the Tribunal.

6. The Tribunal after considering the contentions and the relevant case law upheld the order of the AAC both in regard to the genuineness of the firm as well as the validity of the firm and its entitlement for registration. They then referred to s. 15 of the Act and r. 19 of the Rules and came

to the conclusion that the license which was converted by the licensee for the use of the partnership, and as such there was no transfer and for that proposition relied upon the judgment of the Supreme Court in the case of CIT v. Hind Construction Ltd. . The Tribunal also stated that the partnership firm was not a legal or a juristic person and relied upon the judgment of the Supreme Court in Dulichand Laxminarayan v. CIT . They, therefore, held that there was no transfer of the license in favour of the partners and that the license became the property of the partnership firm and consequently r. 19(1) was not infringed. Then they referred to various rulings of the High Court and the Supreme Court in regard to the legality of the partnership. They relied upon the decision of the Supreme Court in Jer & Co. , and held that r. 19(1) is not violated. So far as r. 19(2) is concerned they stated that the said rule prohibited the introduction or the exclusion of the partners in an existing partnership firm which was itself a license and that the said rule was not applicable to the facts of the case. They also relied upon the decision of the Supreme Court in Umacharan Shah & Bros. v. CIT , and came to the conclusion that the formation of a partnership in the case of a license standing in the name of one of the partners was not illegal. They then referred to s. 15(1) of the Excise Act and referred to cl.(8) of the partnership deed which provided that the licensee-partner alone should lift the arrack and conduct the sale. They also pointed out that there has been no action taken by the excise authorities against the licensee for infringement of the Excise Act or Rules in view of his taking other partners. Even if the other partners sold the liquor it was obvious that they were acting as mere agents of the licensee. They agreed with the AAC that so far as these transactions are concerned there was no prohibition for forming a partnership as in the case of certain other intoxicants for which different rules were made expressly prohibiting the formation of a partnership. They, therefore, held that s. 15 of the Act was not violated. They also incidentally referred to the practice in Visakhapatnam and its suburbs where there were similar partnership firms and, therefore, confirmed the order of the AAC.

7. On the above facts the Tribunal framed the following three points for the decision of this court :

(1) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in holding that the assessee-firm is entitled to the benefits of registration ?
(2) Whether, on the facts and in the circumstances of the case, the finding of the Appellate Tribunal that the firm had not violated rule 19(2) of the Andhra Pradesh Excise Rules was correct ?
(3) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified to hold that there was no transfer when the license became the property of the partnership-firm and that rule 19(1) of the Andhra Pradesh Excise (Arrack and Toddy Licenses General Conditions) Rules, 1969, was not infringed ?

8. In R.C. No. 279/80, which arises from Karimnagar District, the facts are as follows : The assessee was a partnership-firm of six partners carrying on business in sharab & sendhi contracts. The license was taken in the name of one of the partners, Sri Veeranna, so far as arrack business was concerned. In so far as sendhi business was concerned a license was taken in the names of the five other partners. The assessee applied for registration of the firm for the assessment year 1972-73. The ITO held that he was not entitled to registration on the ground that he did not intimate the excise authorities that it was the sole concern of a single individual or a group of persons. Therefore, it was not open to claim the license granted to the individual or some of the

partners of the firm, as belonging to the partnership itself, unless the full constitution of the partnership as shown in the partnership deed was the entity as per the excise records under r. 19(2) of the A.P. Excise (Arrack and Toddy License General Conditions) Rules, 1969. He held that the persons who obtained the license are not the persons who carried on the business. He, therefore, refused registration.

9. On appeal, the AAC confirmed the order of the ITO and dismissed the appeal preferred by the assessee. The assessee then preferred a second appeal to the Income-tax Appellate Tribunal which, on a consideration of the facts and the law, allowed the appeal and directed the grant of registration. They pointed out that the question of illegality of a partnership must be distinguished from illegality of any acts done in the course of its business by the firm or all of its members. They made a distinction between the partnership agreement which though not void at its inception, yet in the course of the business some of the members did something which could be termed illegal. They held that in such a case registration could not be refused on the ground that some illegality was committed during the conduct of the business and subsequent to the for nation of the partnership itself. After referring to various cases including the case of Umacharan Shah & Bros. v. CIT, decided by the supreme Court and the case Jer & Co. , decided by the Supreme Court, they came to the conclusion that rule 19(1) or rule 19(2) of the Rules were not violated. They also pointed out that punishment under s. 36(c) of the Act was only in respect of wilful contraventions. In a case where the excise authority did not choose to cancel the license, the licensee will be entitled to carry on his business under the license and that this indicated that the Excise Act did not intend to prohibit such a partnership. They made a distinction between the penal provisions in any enactment imposing a punishment once for all in contradistinction to cases where punishment was imposed in a recurring manner. They held that the present cases fell in the first category and an inference of total prohibition cannot be made.

10. On the above basis the Tribunal allowed the appeal of the assessee. The Tribunal framed the following point for consideration in this R.C. :"Whether, on the facts and in the circumstances of the cases, the Appellate Tribunal was justified in holding that the assessee-firm is entitled to the benefits of registration ?"

11. The matter was argued by the learned counsel for the Department, Sri M. S.N. Murthy, as well as Sri Y. V. Anjaneyulu for the assessee and quite a large number of rulings have been cited before us and we shall refer to them a little later. But the sheet anchor of the contention of the learned counsel for the Department has been the decision of the Full Bench of the Madras High Court in Velu Padauachi v. Sivasooriam Pillai, . He pointed out that the said ruling has been followed by the Andhra Pradesh High Court in various cases including V. Basavayya v. N. Kottaiyya, . He relied upon an unreported judgment of the Supreme Court in Civil Appeal No. 30/60, dated April 11, 1962 (Govind Rao v. Nathmul) and tried to distinguish the cases of Umacharan Shah and Bros. v. CIT , and the case of Jer & Co. v. CIT , decided by the Supreme Court.

12. On the other hand, Sri Y. V. Anjaneyulu, the learned counsel for the assessee, referred to several rulings costesting the said proposition. He relied very strongly on the decision of the Privy Council in Gordhandas Kessowji v. Champsey Dossa [1921] AIR 1921 PC 137, and of the Supreme Court in Umacharan Shah &Bros. v. CIT , and Jer & Co. v. CIT , and also on several other rulings of the various High Courts.

13. Before adverting to the case law on the various questions it would be convenient to mention the statutory provisions. Section 15 of the A.P. Excise Act, 1968, reads as follows :

"Section 15 : Sale or buying of excisable article without license prohibited -
(1) No person shall sell or buy any intoxicant except under the authority and in accordance with the terms and conditions of a license granted in this behalf."
Rule 19 (at the relevant time) read as follows :
"Rule 19. Transfer of licenses. - (1) The licensee shall not transfer the license for the sale of arrack or toddy to any other person.
(2) Where a license is granted jointly no licensee shall include or exclude any partner except with the previous permission of the licensing authority."
(The subsequent amendment of sub-clause (2) detailing the procedure for obtaining permission is not being extracted as it does not affect the discussion.)

14. From the aforesaid rival contentions the following questions arise for consideration :
(1) Whether the formation of a partnership by a person having a license under the A.P. Excise Act amounts to a transfer of the license in favour of the partner within rule 19(1) of the Rules.
(2) Whether the prohibition mentioned in section 15 of the A.P. Excise Act applies to the non-license partners so as to make the partnership illegal ?
(3) Whether there is any violation of rule 19(2) of the rules making the partnership illegal.
(4) Whether s.23 of the Indian Contract Act invalidated the partnership.
The question of public policy has also been adverted to by the learned counsel for the Department and we shall deal with that question incidentally.

15. Through counsel on both sides have cited a good number of rulings before us, we feel it will be convenient to deal initially with the following cases :

(1) *Gordhandas Kessowji v. Champsey Dossa*[3],
(2) Umacharan Shah & Bros. v. CIT .
(3) Jer & Co. v. CIT .
16. The Privy Council decision in Gordhandas Kessowji v. Champsey Dossa, AIR 1921 PC 137(Supra), is very brief. It is an appeal against the judgment of the Bombay High Court in Champsey Dossa v. Gordhandas Kessowji, AIR 1917 Bom 250, and, therefore, we shall advert to the facts as narrated in the judgment of the Bombay High Court. The question in that case arose under s. 11 of the Bombay Salt Act (Act 2 of 1890). The license in that case was for the manufacture of salt. The relevant clause in the license was as follows :

> "Clause(5) : That he, the licensee, shall not without the written permission of myself (i.e., the Collector of Salt Revenue), or of my successor in office for the time being, sub-let, sell, mortgage or otherwise alienate whole or in part the privilege granted by this license of manufacturing salt on the land within the aforesaid limits."

17. The first defendant in that case who held the license entered into a partnership along with the plaintiff. The latter filed a suit for an injunction to restrain the defendants from excluding the plaintiff from their share in the partnership or in the alternative for dissolution. The defendants contended that the partnership was illegal. The Bombay High Court held as follows :

> "The admission of partners to share in the profits cannot be considered as a sub-letting or alienation of a part of the privilege unless there has been a document directly transferring to the partners or attempting to transfer to the partners a part of the right to manufacture or vend."

18. The Privy Council confirmed the said judgment and observed as follows : (at P. 137 of AIR 1921 PC).

> "A licensee of salt manufacture cannot be said to contravene the terms of his license whereby he is prohibited from alienating the interest, simply because he admits members of his family and others as partners, who, however, do not actually take part in the manufacture, nor is there any document directly transferring the right of manufacture to such partners."

19. The above decision of the Privy Council will make it clear that the formation of a partnership does not amount to a transfer.

20. The next case which may be usefully referred to is the decision of the Supreme Court in Umacharan Shah & Bros.' case . The above case dealt with s. 42(1) of the Bengal Excise Act, 1911, and arose from the Calcutta High Court. Section 42(1) of the Act read as follows :

1. "Subject to such restrictions as the State Government may prescribe, the authority who granted any license, permit or pass under this Act, may cancel or suspend it;....
(a) If it is transferred or sub-let by the holder thereof without the permission of the said authority."

21. In that case, there were three brothers who formed a joint family under the Dayabhaga law and carried on business in the sale of foreign liquor. The licenses for the three shops were in the different names of the brothers but not in the name of the family. One brother died in 1945 and his son was taken as a partner. Another brother died in 1947 and his son also was taken as a partner. A fresh partnership deed was executed between these two new entrants and the last of the three brothers. The partnership deed executed on April 10, 1947, provided that the capital of the partnership was the amount as found to the credit of the parties, that the banking account will be opened in the firm-name or in other names as agreed upon. For the year 1948-49 two returns were filed showing the income from the business as having been received in the status of an HUF and a third return was filed as a partnership. Simultaneously applications were made for an order recognising the partition and for the registration of the partnership. The ITO rejected the claim for registration of the partnership on the ground that there was no separate capital account etc., and held that the partnership was not genuine. The said finding was confirmed by the appellate authority as well as the Tribunal. It was also confirmed by the High Court. In the Supreme Court it was contended for the assessee that the partnership was genuine and should have been granted registration. Their Lordships of the Supreme Court, while dealing with the question of genuineness of the firm, adverted to the legality of the firm and observed as follows (p. 276 of 37 ITR) :

> "There was no evidence that the excise licenses were transferred or sub-let. The three shops, it appears, were managed separately and their accounts were kept distinct. There

was thus nothing which militated against the partnership and it cannot be said that this effected the genuineness of the agreement."

22. The appeal was allowed and a direction was issued to the authorities to register the partnership. We are of the view that the above observations, even if considered to be obiter dicta, clearly hold that the formation of a partnership by a licensee-partner does not amount to a transfer of the license and the said observations are binding on us.

23. The next decision of the Supreme Court in Jer & Co. v. CIT , arose from Allahabad and related to a license obtained under r. 574 of the U.P. Excise Rules, 1910, in respect of wholesale vending of foreign liquor in Form FL.II. Form FL. II contains clause (13), which states : -"The business covered by this license shall not be sub-let or transferred."

24. The Excise Commissioner was authorised to cancel or suspend a license for breach of conditions of the license. The above provisions would show that there was no positive prohibition against formation of a partnership in clause 13 of the license in FL. II. However, in r. 322 of the Excise Manual there was not only a prohibition against the transfer or sub-letting but also against formation of a partnership in respect of an excise license without the prior approval of the Excise Commissioner.

25. Their Lordships of the Supreme Court observed as follows (p. 548 of 79 ITR) :
"The Commissioner and the High Court Proceeded on the footing that the license was governed by rule 322 (of the Excise Rules) which prohibited the holder of the license from entering into a partnership with another person. But the license, it is clear from the record, was in Form FL. II issued under the U.P. Excise Manual. The license does not prohibit the holder from entering into partnership by the holder of the license : it merely provides that the license shall not be sub-let or transferred. Since there is no prohibition against entry by the holder of the license into a partnership, the question whether the partnership was illegal does not arise. The firm was entitled on that account to registration. It is somewhat unfortunate that the attention of the Commissioner and the High Court was not invited to the form in which the license was issued by the excise authorities. They proceeded to decide the case on the footing that rule 322 of the Excise Manual applied. But that rule has no application here."

26. This decision of the Supreme Court would make it absolutely clear that the view expressed in Umacharan's case , had been reiterated by their Lordships when they held that formation of a partnership by a licensee did not amount to a transfer.
27. It is, however, contended for the Revenue that the Madras High Court in a Full Bench decision in Velu Padayachi's case, , had taken the view that under the Madras Abkari Act the formation of a partnership by a licensee partner amounted to a transfer of the license. It is also contended that the said view was followed by this court in several judgments including the one in V. Basavasyya v. N. Kottaiyya, . Other cases, such as the case of D. *Mohideen Sahib & Co. v. CIT*[3] and *CIT v. Krishna Reddy*[4] were also relied upon. It was also submitted for the Revenue that the Kerala High Court in *CIT v. Union Tobacco Co*[5]. and the Punjab High Court in *CIT v. Benarsi Das & Co*[6]. had taken the same view.

28. The question for consideration, therefore, is : Whether, in view of the above two judgments of the Supreme Court, these judgments cited by the learned counsel for the Revenue can still be

said to be binding on us ?

29. We are of the opinion that the clue to the question is to be found in the judgment of the Allahabad High Court in *Jer & Co. v. CIT*[7] which was reversed by the Supreme Court in Jer & Co. , and we shall also refer to the Supreme Court judgment in K.M. Viswanatha Pillai v. K.M. Shanmugham Pillai, , also as pointing out the same clue.

30. In Jer & Co.'s case [1966] 60 ITR 335, decided by the Allahabad High Court, the question was raised under the I.T. Act whether a partnership could be granted registration under the I.T. Act, even though it was trading on the basis of a license granted in the name of one of the partners. The Allahabad High Court held that it was not entitled to registration but on appeal the Supreme Court held that it was entitled to registration.

31. There are three passages, in the judgment of the Allahabad High Court in Jer & Co. [1966] 60 ITR 335(Suupra), which are important (at p. 343) :

"In Velu Padayachi v. Siva Sooriam Pillai, , Govindaraj v. Kandaswami Gounder, , D. Mohideen Sahib & Co. v. Commissioner of Income-tax [1950] 18 ITR 200 (Mad) (Supra)Commissioner of Income-tax v. Union Tobacco Co. [1961] 41 ITR 115 (Ker) (Supra), Commissioner of Income-tax v. Banarsi Das & Co. [1962] 44 ITR 835 (Punj), and Commissioner of Income-tax v. Krishna Reddy [1962] 46 ITR 784 (AP) the partnership entered into by the licensee with other persons was held to be invalid or void..."In the case of Velu Padayachi, , the High Court of Madras had to deal with the Madras Excise Act and Rules having similar provisions to our Excise Act and Rules...", and

32. The passage approving the final conclusion of Horwill J. in the Madras Full Bench as follows, Stating what Horwill J. observed at page 324 (of) :

"... partnership entered into for the purpose of conducting a business in arrack or toddy on a license granted... to only one of them is void ab initio... in that it either involves a transfer of the license, which is prohibited under rule 27 and punishable under section 56, or a breach of section 15... punishable under section 55, because the unlicensed partner, by himself or through his agent, the other partner, sells without a license."

33. The above three passages from the judgment of the Allahabad High Court (60 ITR 335) show that –

(a) the Allahabad High Court followed the Madras Full Bench ;
(b) it also followed the other judgment of the Punjab, Madras, Andhra Pradesh and Kerala High Courts which followed the Madras Full Bench; and
(c) that the provisions of the Madras Abkari Act and Rules and those of the U.P. law are similar.

34. At page 342 (of 60 ITR), the Allahabad High Court also sought to distinguish Umacharan's case , on the ground that in that case their Lordships of the Supreme Court were only concerned with the genuineness of the firm and not with its legality.

35. It was this judgment of the Allahabad High Court in Jer & Co. [1966] 60 ITR 335, that was

reversed by the Supreme Court in Jer & Co. . What is the effect of that reversal ?

36. It may be noted that the Madhya Pradesh High Court in Dayabhai & Co. v. CIT [1966] 59 ITR 364, the Patna High Court in CIT v. Narpati Khan and Co. [1974] 97 ITR 645, and the Punjab High Court in CIT v. Gian Chand & Co. , have already taken the view that the Madras Full Bench in Velu Padayachi's case, , or the cases following the said judgment must be deemed to have been impliedly overruled by the Supreme Court judgments. In the Patna case CIT v. Narpati [1974] 97 ITR 645, above mentioned, Untwalia C J. (as he then was) and S.K. Jha J. observed (at p. 651) :

"Thus,... the cases relied upon by the learned counsel for the Revenue, namely, D. Mohideen Sahib & Co. v. Commissioner of Income-tax [1950] 18 ITR 200 (Mad) (Supra)Commissioner of Income-tax v. Union Tobacco Co. [1961] 41 ITR 115 (Ker) and Jer & Co. v. Commissioner of Income-tax[1966] 60 ITR 335 (All) (supra),... must be held to no longer good law."

37. With respect, we agree with the view taken by the Madhya Pradesh, Patna and the Punjab High Courts in the above rulings, for in our opinion too, the reversal of the Allahabad High Court's judgment (Jer & Co.'s case) by the Supreme Court has the effect of the Supreme Court impliedly overruling the various judgments, which have been followed by the Allahabad High Court, including the Madras Full Bench (Velu Padayachi's case,).

38. The same conclusion is to be arrived at from another decision of the Supreme Court in Viswanatha Pillai v. Shanmugham, , arising under the M.V. Act. While holding that a stage carriage could be plied lawfully by the real owner even though the permit was in the name of the benamidar, their Lordships expressly dissented from the judgment of the Madras High Court in A. V. Varadarajulu *Naidu v. K. V. Thavasi Nadar*[8]*,* in para. 10 of their judgment.

39. An examination of Varadarajulu Naidu's case, , of the Madras High Court would show that the Madras High Court relied upon Velu Padayachi's case, , for coming to the conclusion that a partnership for carrying on transport business with the permit obtained in the name of one of the partners was invalid. In para. 9 (at page 417) of Varadarajulu Naidu's case, , the Madras High Court observed :
"The second defendant was a partner, and as a partner, he became agent of the partnership as well as the other partner, and the running of the lorry with the permit of the 2nd defendant, involved a contravention of the Motor Vehicles Act, namely, the user of the lorry by the owner, namely, the partnership, who had no license in its name. The view in Velu Padayachi's case, [FB], is still good law, and therefore, we are of the opinion that the partnership in this case was an illegal one,...."

40. And as this judgment has been expressly dissented from by their Lordship of the Supreme Court in Visawanatha Pillai's case, , what we have stated about the result of the reversal of the Allahabad judgment in Jer & Co. [1966] 60 ITR 335, equally applies to the Madras judgment in Varadarajulu Naidu's case, , and it must follow that the dissent extended to Velu Padayachi's case, [FB], which was followed in Varadarajulu Naidu's case.

41. In Viswanatha Pillai's case, , the Supreme Court pointed out that in s. 42 of the Motor Vehicles Act, the words used were "permit granted" and the statute did not say "permit granted to

him". A reading of s. 15 of the A.P. Excise Act shows that s. 15 also does not use the words "to him".

42. It was urged for the Revenue that the judgment of the Supreme Court in Viswanatha Pillai's case, , arose under the Motor Vehicles Act and cannot be applied to excise laws of the kind with which we are concerned. But the said argument loses sight of the fact that both in Umacharan's case, and in the case of Jer & Co. [1971] 79 ITR (SC), the Supreme Court was dealing only with excise laws similar to the Madras and Andhra Pradesh excise laws.

43. Though a decision of the Supreme Court may not, in so many words, state that certain cases were wrongly decided, still when the Supreme Court decides a particular question in a particular way, every previous decision which had answered the same question in a different way cannot but be held to have been wrongly decided. This is the principle enunciated in Jai Kumar v. Sher Singh, .

44. Even though the learned counsel on either side have not suggested that the matter may be referred to a Full Bench, we have considered the said question and in view of the Supreme Court judgments (and particularly, the one reversing the Allahabad view) and in view of the fact that the doctrine of implied overruling has already been applied on this very question by the Madhya Pradesh High Court in Daya Bhai's case, [1966] 59 ITR 364, the Patna High Court in Narpati's case [1974] 97 ITR 645 and the Punjab High Court in Gian Chand's case , we are of the view, respectfully agreeing with the said High Courts, that the doctrine of implied overruling is applicable to the situation on hand, and what applies to the Allahabad judgment applies equally to the judgments of the Madras, Andhra Pradesh, Kerala and earlier Punjab cases referred to and followed by the Allahabad High Court in Jer & Co. [1966] 60 ITR 335.

45. In *Young v. Bristol Aeroplane Co. Ltd*[9]*. the* second proposition laid down by the House of Lords was as follows :

"The court is bound to refuse to follow the decision of its own, which, though not expressly overruled, cannot, in its opinion, stand with a decision of the House of Lords."

46. The above proposition of law has recently been applied by a Division Bench of this court in Kodanda Rao v. Government of A.P. [1981] 2 ALT 280, by Madhava Reddy J. (as he then was) and Raghuvir J. for not following certain judgments of this court in view of certain other judgments of the Supreme Court on the same point taking a different view.

47. For all the above reasons, and applying the Supreme Court judgments in :
(a) Umacharan's case [1959] 37 ITR (SC), (b) Jer & Co.'s case , (c) Viswanatha Pillai's case, ,

48. We are of the view - and we say so with great respect, that the reversal of the judgment of the Allahabad High Court, i.e., Jer & Co. [1966] 60 ITR 335 and the dissent from the Madras High Court's judgment, i.e., Varadarajulu Naidu's case, , as above mentioned in the two cases, i.e., Jer & Co. and Viswanatha's case, respectively by the Supreme Court have the effect of impliedly overruling : -

(1) Velu Padayachi's case, , (2) Govindaraj's case, , (3) D. Mohideen Sahib & Co's case, [1950]

18 ITR 200 (Mad) (Supra)(4) Union Tobacco's case, [1961] 41 ITR 115 (Ker), (5) Benarsi Das's case, [1962] 44 ITR 835 (P & H), (6) Krishna Reddi's case, [1962] 46 ITR 784 (AP), which were followed either by the Allahabad High Court in Jer & Co. [1966] 60 ITR 335, or by the Madras High Court in Varadarajulu Naidu's case, . The judgment of the Andhra Pradesh High Court in V. Basavayya v. N. Kottaiyya, , which also followed the Madras Full Bench, cannot, if we may say so with great respect, be treated as good law for the same reasons. We shall, a little later, deal with the unreported judgment of the Supreme Court referred to therein. We respectfully state that the judgment of the Andhra Pradesh High Court in Chandaji Sukhraj & Co. v. Lal & Co., , is consistent with the judgment of the Supreme Court.

49. Therefore the view taken by the Madras Full Bench in [FB]; in respect of r. 27 and s. 15 of the Madras Abkari Act (1886) cannot, if we may say so with great respect, be held to be holding the field after these Supreme Court judgments. That is also the view expressed by the Madhya Pradesh, Patna and Punjab High Courts in the rulings already referred to by us.

50. The legal position can be summarized as follows :

(1) Rule 19(1) of the Rules directs that a licensee shall not transfer the license to any other person. However, when a licensee enters into a partnership with others for sharing the profits or losses arising out of the use of the license, there is, in the eye of law, no transfer of the license. Consequentially there is no contravention of r. 19(1). The position cannot be compared with a situation where the licensee partner actually transfers the license in favour of a third party.
(2) Section 15 of the Act, no doubt, requires that no person shall sell or buy any intoxicant except under the authority and in accordance with the terms and conditions of a license granted in that behalf. But s. 15 does not use the words license "granted to him" nor is there any other specific provision either requiring the partnership to take out a license or making the formation of a partnership illegal.

51. It may also be noted that the Revenue has not produced the relevant license to point out which particular term or condition of the license has been contravened.

52. We may also point out that s. 15 of the A.P. Excise Act is similar to para. 3 of the West Bengal Rice and Paddy Control Order, 1960, which reads as follows :
"No person shall carry on business as a dealer except under and in accordance with a license granted under the Act."

53. The permit holder entered into a partnership in CIT v. Manick Chandra Dey , and the question arose whether the partnership was illegal and not entitled to registration under the I.T. Act. Speaking for the Division Bench and construing para. 3 of the Control order and after referring to the three Supreme Court judgments in Umacharan's case , Jer & Company and Viswanatha Pillai's case, , Sabyasachi Mukherji, J. (as he then was) observed (p. 864) :"In this case, the provisions of the Control Order, as we have set out hereinbefore, do not prohibit entering into a partnership or make the formation of partnership illegal."and held that the partnership was entitled to registration.

54. To like effect is the decision of the Patna High Court in *CIT v. K.C. S*[10].
where the Bihar Mica Act, 1948, required a license for purchase, sale or possession of mica, and

a partnership by the licensee was held entitled to registration.

55. Similarly, *Dungate v. Lee*[11]provides a close analogy to s. 15 of the Andhra Pradesh Excise Act. In the said case the provisions of the Betting and Gaming Acts, 1960 and 1963, were considered. Section 2 provided that no person shall act as a bookmaker on his own account unless he is a holder of a permit authorising him to act. Otherwise he was liable to be punished. Section 28(1) defined "book maker" as any person other than the Board, who, whether on his own account or as servant or agent to any other person, carries on the business, etc. Para. 17 of Sch. I provided that the license may be refused by the authority if it is satisfied that the business will be managed or carried on for the benefit of a third party. In spite of the above provisions a partnership was formed by the licensee partner who was the defendant in the case. The plaintiff was the partner who had no bookmaker's permit. The plaintiff did not take bets over the counter of the office but took bets sometimes on telephone. The plaintiff sued for dissolution. The defendant pleaded that the partnership was void under the Act. Buckley J. held that although the Act required every partner who "acted as a book-maker" to have a bookmaker's permit, it did not require that every partner should have a bookmaker's permit and accordingly the partnership was held valid. It was observed by Buckley J. as follows (p. 248) :

> "There is, of course, nothing illegal about the carrying on of a betting office business with due regard to the Betting and Gaming Act, 1960, nor anything illegal about forming a partnership to carry on such business with due regard to the requirements of the Act of 1960"

56. We respectfully agree with the above rulings.

57. The learned counsel for the Department placed strong reliance on unreported decision of the Supreme Court in Govinda Rao v. Nathmal (Civil Appeal No. 30/60, dt. 11-4-62 of the Supreme Court). That was an appeal from the judgment of the Bombay High Court reported in *Govinda Rao v. Nathmal*[12] and the facts of the case can be culled out from that judgment of the Bombay High Court. The judgment of the High Court as well as the Supreme Court on appeal have been considered in detail by Justice Chandurkar of the Bombay High Court in *Vasantha Rao Shesh Rao v. Devi Prasad Mahadeo*[13] and have been distinguished and were held to be not in conflict with the decision of the Privy Council in Gordhandas Kessowji's case, AIR 1921 PC 137, or of the Supreme Court judgment in Umacharan's case

58. We also agree that Govinda Rao's case (Civil Appeal No. 30/60, dt.11-4-62 of Supreme Court) is clearly distinguishable. There the Supreme Court laid emphasis on s. 3(1) of the C.P. and Berar Food Grains Control Order, 1945, which prohibited any person to deal in foodgrains without a license. The words "deal in food grains" were defined as follows :

> "To engage in the business of purchase, sale, or storage for sale of foodgrains whether on one's own account or on account of or any partnership..."

59. In that judgment of the Supreme Court observed as follows :

> "Without going into the pleas of the defendants it is quite clear that the appellant (plaintiff) was making it easy for the respondent to trade in foodgrains in Central

> Provinces without holding a license, thus abetting an offence of the contravention of the Foodgrains Control Order by the respondents, it not committing an offence himself. The definition of the phrase 'dealing in foodgrains' which we have quoted, clearly shows that every person who dealt in foodgrains in a place where the order applied had to possess a license. The word 'person' in section 3(1) must include a group or association of persons like a firm of partners. A license in the name of one of the partners was not enough. The partnership thus was an illegal one, because the object of the partnership was illegal.....
> ... It is obvious that the partnership was not licensed as a partnership. Therefore, the partnership could not deal in foodgrains in Central Provinces and Berar. The license in the name of the appellant was not one in favour of the partnership, and the whole of the transaction by the partnership was in contravention of the Foodgrains Control Order. A court would not enforce any claim arising from this illegal partnership."

60. A reading of the above judgment of the Supreme Court would clearly show that in that case there was a specific prohibition against the formation of a partnership by the licensee-partner. It is also important to note that even with the permission of the competent authority a license in the name of one partner could not be used by the partnership and it was necessary that the partnership itself, as a unit, was to have a license in its own name as pointed out by Chandurkar J. in Vasantha Rao's case [1970] 72 BLR 333(Supra).

61. Agreeing respectfully with the view taken in Vasantha Rao's case by the Bombay High Court, we hold that the unreported judgment of the Supreme Court in Govinda Rao's case (Civil Appeal No. 30/1960-11-4-62 of the Supreme Court) is clearly distinguishable inasmuch as in that case there was a specific prohibition against a partner using his license for the purpose of a partnership of which he was a partner and as the partnership itself was liable to hold a license in its own name. There was no provision for the conversion of the partner's license even with permission for the purpose of being used by the partnership firm.

62. It is, therefore, not necessary for us to discuss the case in Budh Ram Budh Ram v. Balak Ram v. Dhuri Co-operative-cum-Marketing-cum-Processing Society, , which followed Govinda Rao's case (Civil Appeal No. 30/60, dt. 11-4-62 of Supreme Court).

63. Learned counsel for the Department also contended that a partnership firm is a juristic person and that in Govinda Rao v. Nathmal, the Supreme Court held that a partnership was a juristic person liable to take out a license in its own name.

64. We have already pointed out that the special statutory provisions in Govinda Rao's case required the partnership itself to take a license and it is in that context that it was so decided. In Mandalsa Devi v. M. Ramnarain Pvt. Ltd., , and in Dulichand's case , the Supreme Court held that (sic) two Supreme Court judgments and the other Supreme Court judgments already referred to, we are of the opinion, that a firm is not a juristic entity and under the Andhra Pradesh Excise Act and Rules, the firm need not take out a license in its own name.

65. For the aforesaid reasons, we are of the opinion, on question (1) and (2) framed by us, there is no transfer of the license within r. 19(1) and that s. 15 does not apply to the non-licensee partners and that the partnership is not illegal.

66. The third question framed by us earlier is as follows : Whether the partnership becomes illegal if the r. 19(2) of the A.P. Excise Rules has been violated. A reading of the rule would show that the said provision is not applicable to the case of a license in the name of a single person. Hence in R.C. No. 241/80, the said rule was conceded to be not relevant. The said r. 19(2) would be relevant, however, in R.C. No. 279/80, and the question would arise in that R.C. with regard to the said rule inasmuch as the license was initially in the name of more than one person and thereafter one more person was brought in as a fresh partner. Rule 19(2) requires the sanction of the concerned authorities for including fresh partners in the partnership.

67. It may be noted in this context that Chap. VII of the Act provided that such contraventions may be visited with either a punishment or fine in a certain amount of rupees to be imposed at one time and not for every day during the continuance of the partnership without such permission. There is also no express provisions making the partnership illegal.

68. This question has come up for consideration in connection with registration of partnership firms under the I.T. Act.

69. A Full Bench of the Allahabad High Court dealt with this aspect in P. C. Kapoor v. CIT . Rule 337 which was considered in that case required the permission of the competent authority but the said rule was treated as purely administrative. However, condition No. 4 of the license also required the permission of the competent authority for the formation of the partnership and if the condition was violated it resulted in a fine up to Rs. 200 under s. 64 of the U.P. Excise Act. The question arose whether the permission not having been obtained, the partnership itself became invalid disentitling the partnership for registration under the I.T. Act. In that connection the Full Bench quoted the following passage from Halsbury's Laws of England, 3rd end., vol. VIII, para. 245, p. 141, as follows :

> "If the penalty is recurrent, that is to say, if it is imposed not merely once for all but as often as the act is done, this amount to a prohibition."

70. They then referred to the Full Bench decision of the same court in Udhoodass v. Prem Prakash, [FB], where a Full Bench of the Allahabad High Court held that a contract of tenancy entered into without the permission of the concerned authority under the U.P. Control of Rent and Eviction Act was not void even though the statute penalised the landlord for letting out the premises in contravention of the provisions of the Act. As between the parties to the contract, the tenancy was held to be valid. After referring to the said Full Bench in Udhoodass's case, , the Full Bench in Kapoor's case , while holding the partnership to be valid and directing registration observed as follows (p. 184) :

> "It follows that the wide proposition that, whenever a contract which results in breach of some provision of law, is entered into and the contracting party becomes liable to punished under the law, it necessarily is a contract which is forbidden by law and is as such void, cannot be accepted."

71. The decision of the Allahabad Full Bench in Udhoodass's case, , has since been approved by the Supreme Court in Murlidhar Agarwal v. State of Uttar Pradesh, . There Mathew J. observed as follows :

> "In Udhoodass v. Prem Prakash [FB], a Full Bench of the Allahabad High Court took the view that a lease made in violation of the provisions of s. 7(2) would be valid between the parties and would create the relationship of landlord and tenant between them although it might not bind the authorities concerned. In the light of this ruling the correctness of which we see no reason to doubt we think that the respondent was a tenant."

72. In that case, the provisions of s. 7 of the U.P. Rent Control Act required the permission of the District Magistrate for letting out accommodation. The Act did not say that the tenancy created without permission was invalid. It only provided for punishment. The lease was held valid between the parties. The said Supreme Court decision approving the Allahabad Full Bench was followed by a Full Bench of this court in Shankerlal Gupta v. Jagdishwar Rao, [FB], in relation to the Hyderabad and Andhra Pradesh Rent Control Acts.

73. As the Full Bench of the Allahabad High Court in Kapoor's case , with which we respectfully agree, applied the above principle of law in Udhoodass' case, [FB], which has since been accepted by the Supreme Court and followed by this court, we are of the view that the partnership is valid as between the parties even though the permission of the excise authorities was not obtained and even though the authorities may have power to punish the parties for contravention of the Act or the Rules.

74. In Gherulal Parakh v. Mahadeodas Maiya, , their Lordship approved the decision in *Thwaites v. Coulthwaite*[14] and held that in respect of wagering contracts collateral partnerships were valid as between the partners.

75. A similar view was taken by the Madhya Pradesh High Court in Malwa Knitting Works v. CIT , where an advocate becoming a partner in a business concern was held not to make the partnership illegal but only involved the advocate liable for disciplinary action under the Bar Councils Act. The registration of the partnership could not be refused under the Income-tax Act. Similarly the Mysore High Court in *Sree Ramakrishna Mining Co. v. CIT*[15]considered s. 49 of the Mines and Minerals (Regulation and Development) Act, 1948, under which a mining lease was to be in accordance with r. 37 of the Mineral Concessions Rules, 1949. Though the said rule provided that a lessee may make a transfer of the lease only with the previous sanction of the State Government, it was held by the Mysore High Court that the transfer and the consequential partnership formed by the transferee did not make either the transfer or the partnership void and that the partnership was entitled to registration under the I.T. Act. It was held that there was no express prohibition against transfer or formation of partnership and that r. 37 was only an enabling provision.

76. The above rulings are directly applicable to the facts of the present case and following the same, we hold that the partnership is valid as between the partners.

77. In CIT v. Sheonarayan Harnarayan , CIT v. Pagoda Hotel and Restaurant and Mohapatra Bhandar v. CIT [16]relied upon by the Revenue, the relevant rules only required the permission of the competent authority for the licensee-partner forming a partnership and there was no express prohibition making the partnership illegal. The partnerships were, however, held to be illegal by the Madhya Pradesh and Orissa High Courts. If we may say so with great respect, the said view

is contrary to the principles laid down by the Supreme Court in the above cases, and we are of the opinion that these cases are are not decided.

78. The fact that the excise authorities have not exercised their power of cancelling or suspending the license is also an important circumstance in favour of the assessee, vide Kapoor's case [FB], A. D. Thiagaraja *Pillai v. CIT*[17] and Viswanatha Pillai's case, , and we respectfully follow these rulings.

79. In fact, the AAC and the Tribunal rightly, in our view, observed that r. 19(1), (2) and s. 15 have to be contrasted with the A.P. Denatured Spirit and Denatured Spirituous Preparation Rules, 1970, and condition 9 under r. 5(2) of the A.P. Indian Liquor (Storage and Bond) Rules, 1969, and r. 39 of the A.P. Foreign Liquor and Indian Liquor Rules, 1970. These latter rules, unlike the rules with which we are concerned, specifically prohibited the formation of a partnership. Therefore, no prohibition can be implied in s. 15 or r. 19(1) or (2).

80. The legal position may be summarized as follows : - Rule 19(2) requires that whenever a new partner is introduced or excluded, the previous permission of the licensing authority should be obtained. But if such permission is not obtained the partnership is not rendered illegal. As between the partners it continues to be valid and entitled to registration under the I.T. Act.

81. We shall now take up the fourth point framed by us, viz., whether s. 23 of the Indian Contract Act makes the partnership agreement void.

82. We have already held that the partnership formed by the licensee partner without the permission of the competent authority cannot be considered to be illegal or void. For that purpose, we have followed the Privy Council and Supreme Court judgments in :
(1) Gordhandas case, AIR 1921 PC 137. (2)(Supra) Umacharan's case [1959] 37 ITR 271(supra). (3) Jer & Co.s case [1971] 79 ITR 546.(Supra) (4) Viswanatha's case . (5) Gherulal's case, and (6) Murlidhar's case .

83. Further, the contract of partnership has to be construed in a manner in which it would be consistent with the provisions of the Excise Act and the Rules. The Full Bench of the Allahabad High Court in Kapoor's case , stated that it did not necessarily follow that the non-licensee-partner claimed a right to sell liquor. He participates in the business in a manner permissible by the law. In CIT v. K.C.S. Reddy [1960] 38 ITR 560(Supra)_, the Patna High Court also held that the licensee-partner had the option to decide who should conduct the business of purchasing and selling mica. In *CIT v. Prakash Ram Gupta*[18] the Patna High Court considered a partnership-deed which contained a provision that the non-licensing partner shall supervise and be in charge of the business. Still it held that he could not sell or purchase and the deed was to be construed in such a way so as to make it valid. Similarly, in Mr. *Warasat Hussain v. CIT*[19], the Patna High Court was considering a partnership deed in which clause (6) stated that the management of the business shall be in the hands of all the partners. It was observed that there was no evidence that non-licensee partner carried on the actual business (p. 728) :

> "The management of the business..... does not mean handling of the excisable commodities. The unlicensed partner may look after the management without handling or without being in possession of the excisable articles so long as they do not contravene the

terms and conditions of the license."

84. Similarly the Mysore High Court in Sree Ramakrishna Mining Co.'s case [1967] 64 ITR 197, observed that it was not possible for any one to suggest, having regard to the provisions of r. 37, that the performance of the partnership contract was impossible "except by disobedience of the law". In *Dungate v. Lee*[20] Buckley, J. observed that the non-licensee partner may "confine his participation in the business, to keeping accounts and records", and again observed (p. 250) :

"... the partnership agreement was not one which specifically required the plaintiff to act as a bookmaker..."

85. Even if the non-licensee partner took orders on telephone for credit betting, Buckley, J. held (p. 250) :

> "the partnership agreement was not entered on that basis - that is, with a common intention - that the plaintiff should perform this particular function."

86. It is, therefore, clear that the partnership agreement has to be construed in such away as to make it legal and so that the partners would act in accordance with the Act and Rules and with an intention not to violate the same. We respectfully follow the above rulings of the Allahabad, Patna and Mysore High Courts referred to above. There is also no material produced by the Department to show that the non-licensee partners have acted in contravention of the Act or Rules.

87. Further, when a partnership-firm is formed with an intention that the non-licensee partner would not act in violation of the Act or the Rules (i.e., by themselves conducting the prohibited transactions), a question might arise as to what would happen to the validity of the partnership if, at times, the non-licensee partners "acted" contrary to the Act or Rules.

88. We have already referred to the judgments of the Supreme Court which stated that it is for the authorities to take either penal action or exercise discretion to suspend or cancel the license. But that does not make a partnership - which was legal, to start with, - illegal on account of the subsequent wrongful action of one of the partners. In fact in Dungate v. Lee [1967] 1 All ER 241 (Ch D)(Supra), Buckley J., also dealt with this aspect and held (p. 250) :

> "any infringement of the Act of 1960 that may be have occurred in the conduct of the business after the establishment of partnership cannot, in these circumstances have any bearing on the validity of the partnership agreement."

89. To a like effect are the observations of the Mysore High Court in Sree Ramakrishna Mining Co.'s case [1967] 64 ITR 197(supra), where the said High Court followed Marles v. Philip Trant and Sons Ltd. [1954] 1 QB 29 (CA)(Supra). In that decision singleton and Denning L. J. (Hodson L. J., dissenting) pointed out the distinction between illegality of a contract and illegality in its performance. We respectfully agree with the above rulings, and hold that the subsequent acts of the partners cannot make the partnership illegal.

90. Coming to the public policy under s. 23 of the Contract Act, it was argued for the Department that the Madras Full Bench in Velu Padayachi's case, , based its conclusion on public policy also

and that public policy was very much relevant under the Excise Acts relating to liquor. We pointed out to the learned counsel for the Revenue, that the two cases, in Umacharan's case and Jer & Co.'s case , decided by the Supreme Court, also related to the Bengal and Uttar Pradesh Excise Acts respectively and that their Lordships have still held that the partnership firms were valid and entitled to registration under the I.T. Act. It was then contended for the Department that the Supreme Court did not, in the above case, expressly deal with the question of public policy while dealing with the question of registration of partnership under the I.T. Act and that the Supreme Court judgments cannot be taken as authority on the question of public policy.

91. We are of the opinion that it is not open to us to ignore the Supreme Court judgments on the ground that their Lordships have not considered the question of public policy.

92. When the Bombay High Court in a case arising under the C.P. and Berar Municipalities Act, 1922, ignored a judgment of the Supreme Court on the ground that the relevant provisions of the Act were not brought to the notice of the Supreme Court, their Lordships observed in Ballabhdas Mathuradas Lakhani v. Municipal Committee, Malkapur, .

> "the decision was binding on the High Court and the High Court could not ignore it because they thought that relevant provisions were not brought to the notice of the court."

93. We, therefore, reject this contention of the Department and hold that the partnership agreement does not violate any public policy.

94. For the aforesaid reasons we hold on the fourth point framed by us that the partnership in question does not offend s. 23 of the Indian Contract Act.

95. The I.T. authorities cannot, therefore, refuse registration for the partnership. In view of the various judgments of the Supreme Court referred to by us, the Full Bench decision of the Madras High Court in Velu Padayachi's case, , and the rulings of the Andhra Pradesh High Court following the same, must be deemed to have been impliedly overruled.

96. For the aforesaid reasons, we hold that neither in R.C. No. 241/80 nor in R.C.No. 279/80, there is any violation of r. 19(1) or 19(2) or s. 15, and that, therefore, the partnerships are entitled to registration under the I.T. Act.

97. The Tribunal was, therefore, right in holding that the partnerships are valid and entitled to registration. The three questions referred to us by the Tribunal in R.C. No. 241/80, are answered in the affirmative and in favor of the assessee. Similarly the question in R.C. No. 279/80 is answered in the affirmative and in favour of the assessee.

Cases Referred.

1[1971] 79 ITR 546
2AIR 1921 PC 137
3[1950] 18 ITR 200 (Mad)
4[1962] 46 ITR 784 (AP)
5[1961] 41 ITR 115 (Ker)

6[1962] 44 ITR 835 (Punj)
7[1966] 60 ITR 335
8AIR 1963 Mad 431
9[1946] 1 All ER 98 (HL)
10[1960] 38 ITR 560
11 [1967] 1 All ER 241 (Ch D)
12[1957] Nag LJ 214
13[1970] 72 BLR 333
14[1896] 1 Ch 496 (Ch D)
15 [1967] 64 ITR 197
16[1965] 58 ITR 671 (Ori)
17[1965] 55 ITR 419 (Mad)
18[1969] 72 ITR 366 (Pat)
19[1971] 82 ITR 718
20[1967] 1 All ER 241 (Ch D)