Commissioner of Income Tax v. Jagish Ram Krishan Chand

ITR 15/1995

No neutral citation stated in source | 2007-11-28

Deduction claims and audit reports before final assessment; recalled assessments defeated the premise of a post-completion claim.

80HH | 80J | 139(5) | 144 | 146 | 256

High Court of Himachal Pradesh | Division Bench | Deepak Gupta | V. K. Ahuja

Assessment years: 1979-80, 1980-81

01 FACTS OF THE CASE

Revenue questioned deductions under sections 80HH and 80J not claimed in the original return, absence of an accompanying audit report, and a purported claim after assessment completion. For AYs 1979-80 and 1980-81, section 144 assessments had been recalled under the then section 146. The Court found the assessments had not been finalized when revised returns were filed.

Source: PDF p.1

02 DISCUSSION BY THE HON'BLE COURT

The Court held that a revised return could contain the omitted deductions under the applicable section 139(5). Filing the audit report with the original return was not indispensable if it was on record during assessment with sufficient material before finalization. Panama Chemical Works, Gupta Fabs and Valli Cotton Traders supported substantial compliance. The recalled assessment orders removed the factual premise of question 2.

Source: PDF p.2

03 JUDICIAL DECISION

Question 1 was answered for the assessee. Question 2 was returned unanswered as misconceived because the earlier assessments had been recalled. A signed copy was directed to the Tribunal.

Source: PDF p.3

04 OUTCOME / IN WHOSE FAVOUR

The taxpayer succeeded on the revised claim and audit-report objection. There was no affirmative ruling allowing a claim after an assessment remained finally completed; that question did not arise on the actual record.

Source: PDF p.3

05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

Recall of the assessment is the essential procedural fact — The section 144 orders could not be treated as continuing final assessments after recall under section 146. That explains why the revised-return route remained available under the historical section 139(5). A case involving an un-recalled completed assessment would lack the factual premise on which this Court proceeded.

Timing relief did not dispense with the audit evidence — The Court accepted later filing during assessment, with the report and sufficient material available before finalization. It did not waive the report altogether or make substantive deduction conditions irrelevant. The useful distinction is between failing to attach evidence initially and never producing the required evidence.

An unanswered question is not an additional precedent — Question 2 was rejected because its assumption was wrong, not answered in favour of unrestricted post-assessment claims. The two outcomes should therefore remain separate. Nor does the historical statutory wording quoted here establish current revision deadlines or electronic audit-filing requirements.

Source: PDF p.2

SOURCE & VERIFICATION

20071128_HPHC010023631995.pdf

Complete source PDF reviewed: 4 physical pages.

All 4 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All four source pages read and visually inspected. Caption spelling Jagish retained. The judgment does not state a revised-return date for AY 1980-81 or quantify the deductions.

STATUTORY SCOPE

Historical sections 139(5) and 146; deductions under sections 80HH and 80J. Section 256 reference.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.