

K. S. Rashid and Son v. The Income-tax Investigation Commission, etc.

Civil Appeals Nos. 118 to 121 of 1952

[1954] SCR 738 | 1954-01-22

Constitution articles 226, 227

Constitution articles 226, 227 | Taxation on Income (Investigation Commission) Act 1947 sections 5, 8(5)

5-judge bench | Mehr Chand Mahajan C.J. | B.K. Mukherjea J. (author) | S.R. Das J. | Vivian Bose J. | Ghulam Hasan J.

Historical statutory scope and outcome limits

The territorial analysis concerns Article 226 as then worded. The Court did not decide that section 8(5) absolutely excluded writ jurisdiction, or determine the substantive validity or period of the investigation. No current-law clearance.

01 FACTS OF THE CASE

The firm and individuals challenged investigation proceedings, including their extension beyond March 1943 and application to a deceased partner, a new partner and a reconstituted firm. The Punjab High Court dismissed four writ petitions on territorial-jurisdiction and statutory-remedy grounds. The Commission was located in Delhi although the assessee and assessment authorities were in Uttar Pradesh.

Source: [Primary report: SCR 739-741; PDF 2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

Article 226 created powers distinct from the old charter-based writ jurisdiction. Under its then wording the Commission's location brought it within the Punjab High Court's jurisdiction. However, writ relief was discretionary. The appellants had already invoked section 8(5), and a reference was pending before the Allahabad High Court; proceeding simultaneously by writ was not appropriate. The Court did not finally decide whether section 8(5) altogether excluded the constitutional remedy.

Source: [Primary report: SCR 742-747; PDF 5-10](#)

03 JUDICIAL DECISION

All appeals dismissed without costs, solely because the pending statutory remedy justified withholding discretionary intervention. The High Court's territorial-jurisdiction reasoning was disapproved.

Source: [Primary report: SCR 746-747; PDF 9-10](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue in the ultimate disposition; assessee succeeded on the territorial-jurisdiction point.

Source: [Primary report: SCR 746-747; PDF 9-10](#)

05 AKHB REVIEW POINT

Separate the existence of writ jurisdiction from the discretion to exercise it. Record statutory proceedings already initiated, and do not turn this fact-specific refusal into an absolute bar. The historical territorial test must be read against the applicable constitutional text.

Source: [Primary report: SCR 745-747; PDF 8-10](#)

SOURCE & VERIFICATION

[Supreme Court Reports primary scan — public eSCR mirror](#)

Complete 10-page report, SCR 738-747. The first page begins with the end of the unrelated Dwarkadas Shrinivas judgment. This is one consolidated judgment disposing of Civil Appeals 118-121/1952.

[Open cited source rendition](#)

STATUTORY SCOPE

Historical statutory text and assessment period only. Present statutory equivalence and later judicial treatment are not cleared.

LATER TREATMENT

Source checked 2026-10-19. Subsequent treatment and current-law applicability have not been comprehensively checked.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from an identified primary report. Independent human review is not represented.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, applicable statutory version and subsequent treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.