

Dhakeswari Cotton Mills Ltd. v. Commissioner of Income-tax, West Bengal

Civil Appeal 217 of 1953

[1955] 1 SCR 941 | 1954-10-29

Income-tax Act 1922, section 23(3)

Income-tax Act 1922, section 23(3) | Article 136

5-judge bench | Mehr Chand Mahajan C.J. (author) | S. R. Das | Ghulam Hasan | Bhagwati | Venkatarama Ayyar

Historical statutory scope and outcome limits

The Tribunal order was set aside for a fresh hearing. The Court did not accept the returned profit or finally extinguish the assessment. Connected Civil Appeal 218/1953 is not separately reported in this source. No current-law clearance.

01 FACTS OF THE CASE

For AY 1944-45 (accounting year 1943-44), the company's books were in a magistrate's custody. It filed an incomplete return and sought time to supply particulars. The officer refused the requested extension and estimated gross profit at 40 per cent, against the disclosed 28 per cent, adding Rs. 36 lakhs for supposed unrecorded sales. The Tribunal adopted 35 per cent and reduced the addition to Rs. 16 lakhs, using undisclosed comparative mill profit rates while declining to consider further records.

Source: [Primary report: SCR 942-946; PDF 2-6](#)

02 DISCUSSION BY THE HON'BLE COURT

The Revenue relied on factual finality and the taxing authorities' freedom from technical evidence rules. The Court held that such freedom did not permit pure guess or bare suspicion. The Tribunal had to disclose the adverse departmental comparative material, allow an adequate opportunity to rebut it, and hear the relevant supporting records. Article 136 supplied exceptional, sparingly exercised intervention against unfair adjudication notwithstanding finality provisions; the Court declined to formulate an exhaustive rule for that power.

Source: [Primary report: SCR 947-950; PDF 7-10](#)

03 JUDICIAL DECISION

The appeal was allowed, the Tribunal order set aside and the case remanded for a fair fresh estimation. Both parties could produce material; the Tribunal could remit to the officer. Costs would abide the result.

Source: [Primary report: SCR 950-951; PDF 10-11](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee obtained remand.

Source: [Primary report: SCR 950-951; PDF 10-11](#)

05 AKHB REVIEW POINT

This is a procedural remand, not judicial acceptance of the returned profit or extinction of the assessment. Verify comparability, disclose adverse material and hear rebuttal before estimating profits.

Source: [Primary report: SCR 950-951; PDF 10-11](#)

SOURCE & VERIFICATION

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

Complete 11-page report, SCR 941-951, concerning Civil Appeal 217/1953. Connected Civil Appeal 218/1953 is mentioned as unreported and is not a separate judgment reproduced here.

[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.

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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.