

M/s. Guduthur Bros. v. The Income-tax Officer, Special Circle, Bangalore

Civil Appeal No. 261 of 1958 — Single special-leave appeal from summary rejection of a prohibition petition; no final fresh penalty order was before the Supreme Court.

[1961] 1 SCR 71 | 1960-07-22

A lawfully initiated penalty proceeding survived an order vacated for denial of hearing; the officer could resume at the defective stage without an express appellate remand.

1922 Act: 28(1)(a) | 1922 Act: 28(3) | 1922 Act: 33(2) (argument considered)

3 Judges | S. K. Das | M. Hidayatullah | J. C. Shah

01 FACTS OF THE CASE

The officer could resume the penalty proceeding after affording the missing hearing. For 1948-49 the firm failed to file its return in time and replied in writing to a section 28(1)(a) notice. The officer imposed Rs. 16,000 without the section 28(3) hearing. The Appellate Assistant Commissioner set the order aside and directed refund if recovered. When the officer issued a further hearing notice, the firm sought prohibition, arguing that no express remand had been made.

Source: [SCR 72-73; target passages only,shared-page exclusions in read_bounds.](#)

02 DISCUSSION BY THE HON'BLE COURT

Hidayatullah J distinguished an initial jurisdictional defect from an illegality arising during a valid proceeding. The appellate order corrected the hearing defect; it did not extinguish the original show-cause notice. That notice remained undisposed of, so the officer could continue from the point where the illegality arose. No express remand or Revenue appeal against the appellate order was necessary. The resumed action related back to the valid initiation during assessment proceedings.

Source: [SCR 73-74; target passages only,shared-page exclusions in read_bounds.](#)

03 JUDICIAL DECISION

The officer had jurisdiction to continue after giving the required opportunity and to impose whatever penalty, if any, the circumstances warranted. The Court did not decide the ultimate penalty liability or restore the Rs. 16,000 amount.

Source: [SCR 74-74; target passages only,shared-page exclusions in read_bounds.](#)

04 OUTCOME / IN WHOSE FAVOUR

Firm's appeal dismissed. The prohibition challenge failed and the hearing could proceed. Costs awarded against the firm.

Source: [SCR 74-74; target passages only,shared-page exclusions in read_bounds.](#)

05 AKHB REVIEW POINT

Read why the earlier order was set aside and identify whether valid initiation survives. A curable hearing defect does not establish that a jurisdictionally invalid notice can be repaired. Later statutory limitation requirements must be considered independently.

Source: [SCR 73-74; target passages only, shared-page exclusions in read bounds.](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: Writ Petition No. 215 of 1956

Relationship: Mysore High Court order 6 November 1956, dismissing the Article 226 petition in limine.

SOURCE & VERIFICATION

Original reported Supreme Court judgment

4-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All 4 physical text and image pages personally read; SCR71-74. Target boundaries: physical PDF pages 1-4; SCR 71-74. Start: after previous-case disposition and divider. End: final disposition at end of source. Previous Bhagat Singh police-discipline case tail on p. 1 is excluded. The judgment leaves the actual penalty, if any, to the resumed proceeding; it does not reinstate Rs. 16,000.

Open cited source rendition

Previous Bhagat Singh police-discipline case tail on p. 1 is excluded.

The judgment leaves the actual penalty, if any, to the resumed proceeding; it does not reinstate Rs. 16,000.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 28(1)(a), 28(3), 33(2) (argument considered), Constitution of India, Article 226

The retained Finance Act 2011 text of section 274(1) requires a hearing or reasonable opportunity before penalty; section 275 separately regulates time limits. Only the opening of section 275 was read, so no limitation calculation or current deadline is offered.

Sections 471(1) and 472, Finance Act 2026 text, separate hearing safeguards from penalty time limits; no revival or deadline conclusion follows automatically.

Historical operative law remains separate from the specified later text. Tax-year applicability, unexamined statutory conditions, complete transition provisions and comprehensive later judicial history have not been verified.

Other provisions addressed: Constitution of India, Article 226

LATER TREATMENT

Source checked 2026-10-08. No specific subsequent judicial treatment independently verified for this note.

Jos Chacko Poothokaran is the antecedent Kerala decision whose reasoning the Court rejected; no specific later treatment verified.

Antecedent authorities are not subsequent treatment.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961: bounded later-version comparison](#)

DOR-hosted Taxmann compilation as amended by Finance Act 2011 The retained Finance Act 2011 text of section 274(1) requires a hearing or reasonable opportunity before penalty; section 275 separately regulates time limits. Only the opening of section 275 was read, so no limitation calculation or current deadline is offered. Identified 2011 version; not current consolidated law, whole-Act or image review. Text pages read: 42, 973-974.

[Income-tax Act, 2025 bounded provisions](#)

Official compilation as amended by Finance Act 2026 Version lines 0-13; section 471(1), lines 23043-23046, and 472 opening, lines 23068-23079, physical pp 550-551. Capture hashes identify exact extracted tool-output bytes, not remote PDF bytes. No whole-source, image, current-applicability or exhaustive history claim.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

PROFESSIONAL DISCLAIMER

AI-assisted legal research note for general information and professional research. It is not legal or tax advice. Verify the original judgment, applicable statutory version and subsequent judicial treatment before relying on it. The AKHB Review Point is editorial analysis, not part of the Court's judgment.