

Homi Jehangir Gheesta v. The Commissioner of Income-tax, Bombay

Civil Appeal No. 24 of 1958 — Single Supreme Court civil appeal disposed of by this judgment.
[1961] 1 SCR 770 | 1960-09-22

No referable question of law arose where the Tribunal's order, read as a whole, supported a factual inference that the unexplained money was income; minor lapses did not vitiate it.

1922 Act: 23(3) | 1922 Act: 66(2)

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

01 FACTS OF THE CASE

The assessee encashed high-denomination notes worth Rs.87,500 and said they represented his share of his mother's estate, invested during minority by family members. His declaration, later letter and affidavit differed over who managed the money, who delivered it and whether delivery preceded or followed an uncle's death. The estate's alleged value and the investments producing the increased sum were not established. The officer taxed the receipt as undisclosed income; the appellate authority and Tribunal agreed. The Tribunal refused a reference, and the High Court summarily dismissed the section 66(2) application. Special leave in the present appeal concerned that High Court refusal.

Source: [SCR 771-774; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted that irrelevant material, conjecture or prejudice can turn an ostensibly factual finding into a legal issue. But Dhirajlal Girdharilal and Omar Salay Mohamed Sait required evaluation of the Tribunal's order as a whole, not isolation of every incautious sentence. Questions about the sister's supposed inheritance and the father's handling of the estate were relevant to the common story's probability. The sister's non-assessment did not establish the appellant's account. The Tribunal's criticism of the father's initial non-attendance and remark that a student could earn income did not undermine its substantially grounded conclusion: the father was later examined, and the essential inheritance and investment evidence was missing. Proper inferences from proved circumstances were distinguishable from unsupported speculation.

Source: [SCR 774-778; reasoning, with opinion boundaries preserved](#)

03 JUDICIAL DECISION

The rejection of an explanation does not invariably establish that a receipt is income. Here, however, the circumstances justified that factual inference without direct Revenue evidence identifying a particular income source. Read fairly and completely, the Tribunal's decision disclosed none of the asserted legal defects. The High Court was therefore right to refuse a reference.

Source: [SCR 777-778; holding and express limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal dismissed. No reference was compelled under section 66(2), and the challenged assessment finding remained undisturbed. Appeal dismissed with costs.

Source: [SCR 778-778; operative disposition and costs](#)

05 AKHB REVIEW POINT

A challenge to fact-finding should demonstrate a material legal defect in the reasoning as a whole, rather than merely an unfortunate expression. Conversely, this case does not license ignoring decisive evidence or treating every rejected explanation as taxable income. It predates later specific unexplained-money deeming provisions. Keep the reference-stage holding, the record-based inference and the statutory conditions of any later charge analytically separate.

Source: [SCR 777-778; editorial analysis based on the identified primary passages](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: I.T.A. No. 49 of 1956

Relationship: Bombay High Court, summary refusal of section 66(2) petition on 4 October 1956

SOURCE & VERIFICATION

Original reported Supreme Court judgment

9-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 nine physical text and image pages, SCR 770-778. S. K. Das J judgment pp 2-9. Appeal is from High Court summary refusal of a section 66(2) reference, not an unrestricted factual rehearing or direct Tribunal appeal. Final no-question-of-law dismissal with costs p 9; no neighboring case included.

Open cited source rendition

The inheritance narrative is the assessee's disputed explanation, not a finding that the alleged estate or investments existed.

Special leave was granted against the High Court order; the reported text says no order was then made on the requests to appeal directly against the Tribunal orders.

No neighboring-case text forms part of this source.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 23(3), 66(2)

The Finance Act 2011 section 69A separately deems unexplained owned money to be income subject to its stated conditions; section 68 concerns credits in books. Section 260A uses a substantial-question-of-law threshold. These later provisions are distinct from the 1922 reference and evidentiary setting and are not presumed satisfied by this old finding.

No 2025 unexplained-money or appellate-threshold provision was independently verified for this note. The general evidentiary discussion is not presented as a section-number mapping or a current statutory deeming rule.

The historical operative law is identified separately. Only the stated later versions and bounded passages were checked; applicability to a later tax year, transitional savings and comprehensive judicial history remain unverified.

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment adopted except where expressly stated.

No later primary judicial treatment was verified for this note. The cited Dhirajlal and Omar Sait decisions are earlier authorities examined in the target judgment, not evidence of later approval.

Earlier cases discussed in the target judgment do not constitute subsequent history.

IDENTIFIED SOURCE LINKS

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

DOR-hosted Taxmann compilation labelled as amended by Finance Act2011 Only the identified statutory passages on these pages plus version p42. Not a current consolidated text, Gazette-original authentication, whole-Act or image review. Text pages read: 405-406, 914-915.

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