

L. Hazari Mal Kuthiala v. The Income-tax Officer, Special Circle, Ambala Cantt.

Civil Appeal No. 135 of 1958 — Single Supreme Court civil appeal disposed of by this judgment.
[1961] 1 SCR 892 | 1960-09-27

The Commissioner validly allocated a non-pending assessment under Patiala section 5(5); failure to consult the superior authority did not invalidate this administrative allocation.

Patiala Income-tax Act, Samvat 2001; Kapurthala income-tax law; Indian Income-tax Act, 1922; Finance Act, 1950 | 1922 Act (discussed): 5(5) | 1922 Act (discussed): 5(7A), including later Explanation (comparison) | 1922 Act (discussed): 64(1)

5 Judges | S. K. Das | M. Hidayatullah | K. C. Das Gupta | J. C. Shah | N. Rajagopala Ayyangar

01 FACTS OF THE CASE

The timber-trading firm had been assessed under Kapurthala law for its 1945–46 accounts before integration into Pepsu. Patiala law subsequently supplied the administrative framework, followed by the central Finance Act's repeal-and-savings provisions. In November 1953 the Commissioner, citing the Indian Act, assigned the firm to the Special Circle at Ambala instead of the ordinarily competent Patiala officer. The Ambala officer later issued reassessment notice. The firm challenged jurisdiction in a writ petition and appealed its dismissal. Before the Supreme Court, Revenue accepted that any substantive reassessment must follow the relevant Kapurthala law; the live issue was the Commissioner's allocation power.

Source: [SCR 894–896; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated the power as referable to the available Patiala provision that supported it, notwithstanding citation of the Indian Act. Patiala section 5(5) required consultation with the Minister, whose place was taken by the Central Board of Revenue. The Commissioner's power was vested in him; consultation supplied administrative control. Applying the statutory-purpose approach, its omission was directory as to validity, though administratively wrong. Section 5(7A), without the later Explanation found in the Indian Act, covered pending cases only and could not sustain this order. Section 5(5), however, allowed allocation of functions concerning persons, incomes or areas and extended to a single person. A non-pending case could be arranged for future disposal under that general power. This construction preserved the special provision for transfer of pending proceedings rather than rendering it redundant.

Source: [SCR 896–902; reasoning, with opinion boundaries preserved](#)

03 JUDICIAL DECISION

The allocation was valid under section 5(5), and the assessee could not defeat it for want of consultation. The Court did not hold that section 5(7A) itself reached non-pending cases. Nor did it decide the abandoned Article 14 objection or revive the conceded claim that Patiala substantive law governed the old Kapurthala income.

Source: [SCR 895-902; holding and express limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Firm's appeal dismissed. The jurisdictional challenge to the Ambala officer failed; the substantive reassessment remained subject to the acknowledged Kapurthala law. Appeal dismissed with costs.

Source: [SCR 902-902; operative disposition and costs](#)

05 AKHB REVIEW POINT

Locate a real empowering provision before treating a mistaken statutory citation as harmless. Then distinguish the repository of power from procedural controls and identify whether proceedings were pending. This case's directory-consultation conclusion concerns its particular administrative scheme; it does not make every tax-transfer hearing or approval requirement optional. The historical saving of machinery must also be kept separate from the substantive law governing the income.

Source: [SCR 896-902; editorial analysis based on the identified primary passages](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: Civil Writ Case No. 325 of 1955

Relationship: Punjab High Court, judgment 4 September 1956

ACCOUNTING PERIODS

1945-46 (Samvat 2002)

SOURCE & VERIFICATION

[Original reported Supreme Court judgment](#)

11-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 eleven physical text and image pages, SCR 892-902. Target caption/headnote pp 1-2; Hidayatullah J judgment pp 3-11; final dismissal with costs above p 11 rule. Burmah Shell sales-tax caption/headnote below that rule excluded. Patiala administrative machinery distinguished from conceded Kapurthala substantive reassessment law; headnote dates differ from judgment and are preserved as warnings.

[Open cited source rendition](#)

Headnote p 1 dates the reassessment notice 12 March 1953; judgment p 4 gives 12 March 1955.

Headnote p 2 refers to transfer order 4 November 1954, while pp 1, 4 and 5 give 4 November 1953. The narrative follows the judgment and retains the discrepancy.

Source identifies Finance Act 1950 as "26 of 1950"; the note does not silently validate or correct that printed Act number.

Burmah Shell Oil Storage and Distributing Co. sales-tax caption/headnote below p 11 rule is excluded.

Article 14 and the argument that Finance Act section 13 excludes reassessment were abandoned; the substantive Kapurthala-law concession is distinct from Patiala administrative machinery.

STATUTORY SCOPE

Patiala Income-tax Act, Samvat 2001; Kapurthala income-tax law; Indian Income-tax Act, 1922; Finance Act, 1950; 5(5), 5(7A), including later Explanation (comparison), 64(1)

The Finance Act 2011 version of section 127 expressly requires reasons and, where possible, an opportunity of hearing, with a same-locality exception. Its Explanation includes pending, completed and future proceedings. Those textual features differ from the Patiala scheme; the 1960 directory-consultation conclusion does not decide their enforceability.

No 2025 allocation or transfer provision was independently verified for this note. No section number or conclusion about the mandatory character of later safeguards is supplied.

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.

Other provisions addressed: Patiala Income-tax Act, Samvat 2001, sections 5(5), 5(7A), 34; Kapurthala income-tax law applicable to Samvat 2002 (substantive reassessment conceded); Finance Act, 1950, section 13; Constitution, Articles 226, 132 and 133

LATER TREATMENT

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

No later primary decision applying this precise consultation/allocation ruling has been verified. Its reference to the available source of power is not represented as curing absence of substantive jurisdiction or non-compliance with every later safeguard.

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 Act 2011 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: 662-663.

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