

Calcutta Discount Company Limited v. Income-tax Officer, Companies District, I and Another

Civil Appeal No. 197 of 1954 — Single Supreme Court civil appeal disposed of by this judgment.
[1961] 2 SCR 241 | 1960-11-01

By a three-to-two majority, reopening failed because the officer had no material supporting non-disclosure of a primary fact; the assessee was not obliged to supply the officer's factual or legal inferences.

Indian Income-tax Act, 1922, section 34 as amended in 1948 | 1922 Act: 22 | 1922 Act: 23(3) | 1922 Act: 34(1)(a) and Explanation | 1922 Act: 34(1)(b) (distinguished)

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

01 FACTS OF THE CASE

The investment company's completed assessments had excluded profits from share sales, accepting its case that these changed investments rather than constituted trading. In March 1951 the officer issued section 34 notices for three assessment years, more than four years after each year-end. His report relied on later trading results and failure to reveal the "true intention" behind earlier sales. The company sought Article 226 relief. The High Court's appellate bench dismissed its petition; reassessments had meanwhile been completed with the trial judge's permission, expressly without prejudice to the challenge.

Source: [SCR 244-259; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

Das Gupta J, for the majority, required two beliefs under the then section 34(1)(a): income had escaped assessment, and the escapement resulted from the assessee's specified failure. Full and true disclosure meant all primary material facts, including relevant document entries; simply producing books was not necessarily enough. Once those facts were disclosed, drawing factual and legal inferences belonged to the officer. The majority found the sales and relevant company materials disclosed and treated the alleged trading intention as inferential. Courts could examine whether any material supported the jurisdictional belief, but not its adequacy where reasonable prima facie grounds existed. Hidayatullah J dissented because describing regular trading as casual investment could conceal a known fact. Shah J separately considered that actual disclosure of the company's objects and business acquisitions was unproved and that the record supported the officer's belief.

Source: [SCR 247-275; reasoning, with opinion boundaries preserved](#)

03 JUDICIAL DECISION

The majority held that the non-disclosure condition was absent and the notices lacked jurisdiction. Alternative statutory remedies did not require withholding timely writ relief against unauthorized proceedings. It restored the trial judge's protective order on the jurisdictional ground and additionally quashed the completed reassessments. The two proposed dissenting dismissals were superseded by the final By Court order allowing the appeal.

Source: [SCR 257-275; holding and express limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Company's appeal allowed by a 3-2 majority. Further action on the three notices was restrained and the reassessment orders were quashed. Company awarded costs here and below.

Source: [SCR 259-275; operative disposition and costs](#)

05 AKHB REVIEW POINT

Identify the exact primary fact said to have been withheld and connect it to escapement; a disputed inference alone cannot fill that gap. Equally, the majority gives no licence to bury material facts in documents. The dissent exposes the evidentiary boundary over what was actually disclosed. This is a historical jurisdiction ruling, not a decision that the share profits were capital receipts or that every later reopening is barred as a change of opinion.

Source: [SCR 249-274; editorial analysis based on the identified primary passages](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: Appeal from Original Order No. 54 of 1953

Relationship: Calcutta High Court appellate judgment 25 March 1953

OPINIONS AND OPERATIVE ORDER

1.

Author: K. C. Das Gupta

Joined by: S. K. Das; N. Rajagopala Ayyangar

Type: majority

Physical pages: 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19

2.

Author: M. Hidayatullah

Type: dissent

Physical pages: 19; 20; 21; 22; 23

3.

Author: J. C. Shah

Type: dissent

Physical pages: 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35

4.

Type: By Court operative majority order

Physical pages: 35

SOURCE & VERIFICATION

Original reported Supreme Court judgment

35-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 35 physical text and image pages, SCR 241-275. Target headnote pp 1-3; Das Gupta J for S. K. Das, Das Gupta and Ayyangar JJ pp 4-19; Hidayatullah J dissent pp 19-23; Shah J separate dissent pp 23-35; governing By Court majority order p 35. Distinct dissent dispositions are not treated as final outcome. No neighboring case included.

Open cited source rendition

Headnote p 1 prints Rs.5,46,002, while quoted reports in the judgments at pp 11 and 20 print Rs.5,48,002; no exact disputed amount is selected for the note.

Headnote p 2 prints section 24(1) in its Hidayatullah summary; the actual operative provision is section 34.

Majority p 5 cites certificate Article 133(1)(a); Hidayatullah p 21 cites Article 133(1)(c). The conflict is preserved without choosing a subclause.

Majority, each dissent and the final By Court order are distinct; dissenting proposed costs/dismissal do not govern.

The retrospectivity/limitation objection to the 1948 amendment was no longer disputed before the Supreme Court and is not decided afresh.

STATUTORY SCOPE

Indian Income-tax Act, 1922, section 34 as amended in 1948; 22, 23(3), 34(1)(a) and Explanation, 34(1)(b) (distinguished)

The retained Finance Act 2011 section 147 first proviso and Explanation 1 still distinguish full material disclosure from mere production of books in specified completed assessments. By contrast, departmental 2026 section 147 uses an escapement formulation subject to sections 148-153. The 1960 two-condition/eight-year structure cannot simply be substituted for the relevant later text.

Separately verified section 280(4) requires information suggesting escapement. Section 281(1)-(3) supplies a show-cause/reply/prior-approved-order process, with exceptions in subsection (4). These are later statutory safeguards; the bounded reading does not establish automatic carryover of the historical section 34 conditions or determine transitional applicability.

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: Constitution, Article 226; Constitution, Article 133 (certificate subclause differs between opinions)

LATER TREATMENT

Source checked 2026-10-08. Specific bounded use verified in New Delhi Television Ltd v DCIT, 3 April 2020, paras 32–35/44, under the then-applicable 1961 regime.

In New Delhi Television Ltd v DCIT (3 April 2020), Civil Appeal 1008/2020, paras 32–35 applied Calcutta Discount's primary-facts distinction under the then section 147 proviso. Paragraph 44 quashed an out-of-four-year notice for want of non-disclosure despite sufficient reasons to believe escapement; a fresh foreign-asset-proviso notice was left open if legally permissible. This bounded judicial-text check is not a comprehensive citator or a holding under the post-2021/2025 regimes.

Only the stated 2020 application and outcome reservation; comprehensive subsequent history remains not verified.

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: 720–721.

[Income-tax Act, 1961 section 147](#)

Departmental page labelled 2026 Header/version and substantive lines 38–64. Bounded section reading only; other referenced sections and applicability/savings not comprehensively verified.

[Income-tax Act, 2025 section 280](#)

Departmental one-page PDF text including Act 4 of 2026 amendment. Full one-page extracted section, lines 0–34. No raw PDF retention or image-review claim; one-section comparison only.

[Income-tax Act, 2025 section 281](#)

Departmental page labelled 2025, not represented as 2026 consolidation. Version/header and all substantive subsections, lines 38–71. Full section read including subsection 4 exceptions; no whole-Act or currentness guarantee.

[New Delhi Television Ltd v Deputy Commissioner of Income Tax, 3 April 2020, Civil Appeal 1008/2020](#)

Paras 32–35 and 44, with adjacent context 24–31 and 36–43. Indian Kanoon reproduction; no official PDF/image/full-judgment or comprehensive subsequent-history claim.

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