

The Commissioner of Income-tax, Bihar & Orissa v. Maharaja Pratapsingh Bahadur of Gidhaur

Civil Appeal No. 650 of 1957 — Single Supreme Court civil appeal disposed of by the target judgment.

[1961] 2 SCR 760 | 1960-11-29

Retrospective substitution of section 34 required prior Commissioner approval for the August 1948 reassessment notices; the general repeal saving did not validate notices issued without it.

1922 Act: 34 | 1922 Act: 66(1)

3 Judges | J. L. Kapur | M. Hidayatullah | J. C. Shah

01 FACTS OF THE CASE

Interest on arrears of agricultural rent had been omitted from the Maharaja's assessments for four years, following the then Patna view. After the Privy Council reversed that view, the Income-tax Officer issued section 34 notices on 8 August 1948 and completed assessments on 26 August. He obtained no prior Commissioner approval because the existing section did not require it. The amendment assented to on 8 September 1948 substituted a new section 34 retrospectively from 30 March 1948. The Tribunal majority invalidated the notices and assessments; the High Court agreed.

Source: [SCR 761-762; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court focused on the amendment's express commencement fiction. The substituted provision prohibited notice unless the officer recorded reasons and the Commissioner was satisfied that it was a fit case. Ordinary repeal savings under section 6 of the General Clauses Act operated only absent a different intention. A simple prospective repeal and reenactment might have left previous acts protected. Here the amending Act had replaced the former section from an earlier specified date, so the new approval requirement had to be treated as existing when these notices were issued. That retrospective direction supplied the different intention. The Privy Council authority concerning an already concluded action and later revival of a cause of action did not answer this statutory setting.

Source: [SCR 762-764; judicial reasoning; opinion boundaries preserved](#)

03 JUDICIAL DECISION

The notices were invalid for want of prior approval under the provision deemed operative on their dates, and the assessments based on them could not stand. The Court applied the retrospective-law principle in Venkatachalam v. Bombay Dyeing. The mandatory character of the condition was not contested before it. It observed that fresh notices could have been issued in time, rather than relying on the defective originals.

Source: [SCR 764-764; holding and expressed limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeal dismissed. The High Court's answers and the setting aside of the reassessments remained effective. Appeal dismissed with costs.

Source: [SCR 764-764; operative disposition and costs](#)

05 AKHB REVIEW POINT

Build the notice chronology against both the enactment date and the deemed commencement date. A general saving provision cannot replace analysis of the amending statute's contrary intention. The case resolves these 1948 notices and does not decide present reassessment time limits, approval authorities or the effect of a different transition clause. It also supplies no fresh merits determination that agricultural-rent interest was exempt.

Source: [SCR 763-764; editorial analysis based on the indicated reasoning](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: Miscellaneous Judicial Case No. 665 of 1954

Relationship: Patna High Court originating reference; judgment 13 July 1956

SOURCE & VERIFICATION

Original reported Supreme Court judgment

5-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 five pages/SCR760-764, complete target caption/headnote and Hidayatullah J opinion through dismissal/costs; no neighboring case. Headnote erroneously calls the agricultural-income holder appellant while printed caption and body show Revenue appellant.

Open cited source rendition

The opening headnote calls the agricultural-income recipient appellant; the printed caption and judicial body identify the Commissioner as appellant. The note follows the judicial body.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 34, 66(1)

No provision-level 1961 comparison is adopted for this particular issue in the bounded review. The historical holding is not treated as deciding a later charge or procedure.

No corresponding 2025 provision was verified for the reassessment approval and transition provisions; no renumbering or present-law equivalence is asserted.

The operative historical law is identified separately. Only the stated later statutory versions and passages were checked; comprehensive subsequent history and applicability to a particular later tax year remain unverified.

Other provisions addressed: Income-tax and Business Profits Tax (Amendment) Act, 1948, sections 1 and 8; General Clauses Act, 1897, section 6

LATER TREATMENT

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

No later primary ruling on this precise retrospective 1948 substitution has yet been checked; modern reassessment transition rules are not treated as governed automatically by this result.

Earlier authorities discussed within the target judgment are not treated as later-use evidence.

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.