

Esthuri Aswathiah v. The Income-tax Officer, Mysore State

Civil Appeal No. 200 of 1960 — Single Supreme Court civil appeal disposed of by this judgment.
[1961] 2 SCR 911 | 1960-12-05

The order recording “no proceeding” completed a nil assessment; a later purported revised return did not prevent a timely section 34(1)(a) reopening for undisclosed income.

Indian Income-tax Act, 1922; Finance Act, 1950; Mysore Income-tax Act | 1922 Act: 2(ii) (as printed in the appellate narrative) | 1922 Act: 22(2) | 1922 Act: 22(3) | 1922 Act: 23(1) | 1922 Act: 34(1)(a) | 1922 Act: 34(1)(b) (distinguished) | 1922 Act: 60A

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

01 FACTS OF THE CASE

The Hindu undivided family traded in groundnuts and other commodities in former Mysore State. After central income-tax law took effect, it returned no assessable income for 1950–51, relying on the relationship between its July–June accounts and the earlier State assessment. The officer recorded “no proceeding” and closed the assessment. Books produced for 1951–52 later showed an unexplained opening cash balance of about Rs.1.87 lakh on 1 July 1949. The appellate authority directed consideration of Rs.1.37 lakh in the 1950–51 assessment, after an opportunity to explain it. A purported revised return followed the original closure; reassessment notice was served on 15 October 1957.

Source: [SCR 912-914; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 23(1) of the 1922 Act permitted assessment on an accepted return without attendance or further evidence. In these circumstances, “no proceeding” signified acceptance of the nil return, rather than an assessment left pending. Section 22(3) allowed revision only before assessment, so the February 1957 return could neither reopen that completed proceeding nor obstruct section 34. The unexplained balance, failure to produce earlier books and absence of disclosed income supported the officer’s belief that material facts had not been fully and truly disclosed. On transition, Finance Act section 13(1) preserved Mysore law only for periods outside the relevant central previous year. Clause 5(1) of the concessions order protected qualifying income already assessed under State law from the corresponding central assessment; it did not create the claimed general exemption.

Source: [SCR 914-917; reasoning, with opinion boundaries preserved](#)

03 JUDICIAL DECISION

The officer possessed jurisdiction under section 34(1)(a). Its then-applicable eight-year period covered the notice; the four-year information route was not the governing provision. The completed nil assessment and ineffectual later return supplied no jurisdictional bar. The Court also rejected the contention that the disputed period could be assessed only under Mysore law.

Source: [SCR 915-917; holding and express limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal dismissed. The reassessment notice and High Court refusal to quash it stood; the Court did not itself make a final assessment of the disputed credit. Appeal dismissed with costs.

Source: [SCR 917-917; operative disposition and costs](#)

05 AKHB REVIEW POINT

Read an informal closure entry in its statutory and factual setting before treating a return as pending. This decision does not establish that every "no proceeding" endorsement, or a later statutory intimation, constitutes an assessment. Keep jurisdiction to reopen separate from proof of the ultimate addition, and establish the exact State assessment and previous-year overlap before invoking a transitional concession. The historical eight-year limit is not a present-law rule.

Source: [SCR 915-917; editorial analysis based on the identified primary passages](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: Writ Petition No. 263 of 1957

Relationship: Mysore High Court, judgment 19 March 1959

BACKGROUND ASSESSMENT YEARS

1949-50 under Mysore law; 1951-52

SOURCE & VERIFICATION

Original reported Supreme Court judgment

7-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 seven physical text and image pages, SCR 911-917. Target caption/headnote pp 1-2; Shah J judgment pp 2-7 and final dismissal with costs p 7. No neighboring case included.

Open cited source rendition

The catalogue splits Aswathiah as "Asw athiah"; the printed caption reads Aswathiah.

The headnote's statement about an assessment "yet pending" is read with the judgment holding the original nil assessment completed.

The appellate narrative cites section 2(ii), as printed; no silently corrected subsection is supplied.

STATUTORY SCOPE

Indian Income-tax Act, 1922; Finance Act, 1950; Mysore Income-tax Act; 2(ii) (as printed in the appellate narrative), 22(2), 22(3), 23(1), 34(1)(a), 34(1)(b) (distinguished), 60A

The retained Finance Act 2011 version of section 147 separately addressed escapement and a four-year proviso for completed assessments. The departmental 2026 section 147 instead directs attention to sections 148–153. Neither text establishes that a later intimation equals the section 23(1) nil assessment here.

The separately read section 280(4) requires information suggesting escapement, and section 281 provides a hearing/order procedure subject to specified exceptions. These provisions do not reproduce this judgment's eight-year rule or decide the status of a nil-return closure.

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: Finance Act, 1950, section 13(1); Part B States (Taxation Concessions) Order, 1950, clause 5(1); Constitution, Article 226

LATER TREATMENT

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

No later primary judgment on this particular “no proceeding” order or Mysore concession has been verified. Current notice validity requires the applicable statutory version and procedural history.

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: 720–721.

[Income-tax Act,1961 section147](#)

Departmental page labelled2026 Header/version and substantive lines38–64. Bounded section reading only; other referenced sections and applicability/savings not comprehensively verified.

[Income-tax Act,2025 section280](#)

Departmental one-page PDF text including Act4of2026 amendment Full one-page extracted section, lines0–34. No raw PDF retention or image-review claim; one-section comparison only.

[Income-tax Act,2025 section281](#)

Departmental page labelled2025, not represented as2026 consolidation Version/header and all substantive subsections, lines38–71. Full section read including subsection4 exceptions; no whole-Act or currentness guarantee.

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