

## The Commissioner of Income-tax, Bombay v. M/s. Filmistan Ltd.

Civil Appeal No. 451 of 1960 — Supreme Court certificate appeal / I.T.R. No. 8 of 1957 — Bombay High Court originating reference

[1961] 3 SCR 893 | 1961-02-21

**Payment of the required tax after limitation made the penalty appeal properly filed on the payment date; the appellate authority then had to consider sufficient cause for delay.**

1922 Act: 29 | 1922 Act: 30(1) | 1922 Act: 30(2) | 1922 Act: 46(1) | 1922 Act: 66A(2)

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

### 01 FACTS OF THE CASE

Filmistan defaulted on the last tax instalment, ₹30,646 and 14 annas, due on 20 March 1955. The officer imposed a ₹3,000 penalty under section 46(1) on 31 March. The company presented its appeal on 20 April, within limitation, but paid the arrears only on 16 May. The Appellate Assistant Commissioner rejected the appeal as incompetent. The Tribunal held that it became a proper appeal on payment and directed the appellate authority to consider condonation. The Bombay High Court upheld that approach.

Source: [SCR894-895 upperpart: instalment, penalty, presentation and payment.](#)

### 02 DISCUSSION BY THE HON'BLE COURT

Kapur J construed the proviso to section 30(1), which barred an appeal against a section 46(1) order unless tax had been paid, together with subsection (2). The words did not forbid presentation of the memorandum or make the document waste paper. They prevented the appeal from being treated as properly filed until payment. If payment followed presentation but occurred before limitation expired, the appeal would be timely. If payment occurred later, the effective filing date was the date of payment and the delay required a sufficient-cause decision.

Source: [SCR895 middle-896 top: construction of 30\(1\) with 30\(2\).](#)

### 03 JUDICIAL DECISION

The Tribunal had correctly required the Appellate Assistant Commissioner to address condonation. The Court sustained that procedural route without deciding whether the company had sufficient cause, whether delay should ultimately be excused, or whether the penalty was justified on its merits.

Source: [SCR895 lowerhalf-896 upperquarter: payment-date and condonation.](#)

### 04 OUTCOME / IN WHOSE FAVOUR

Revenue appeal dismissed. The Tribunal's direction to deal with the appeal according to law, including condonation, remained operative. Dismissed with costs.

Source: [SCR896 upperquarter before Devidas caption: dismissal with costs.](#)

## 05 AKHB REVIEW POINT

Separate presentation, satisfaction of a tax-payment condition, limitation and condonation. This old penalty-appeal proviso is not identical to later admission conditions based on returned-income tax or advance tax. Payment alone does not answer the independent question of sufficient cause.

Source: [SCR895: presentation versus proper filing and sufficient cause.](#)

## SOURCE & VERIFICATION

### Original reported Supreme Court judgment

4-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. All4physical text/images SCR893-896. PREVIOUS physical 1/SCR893 top through BY COURT majority disposal (~top28%): Haridas Mondal v Anath Nath Mittra, Hidayatullah dissent plus Court majority, borrower/moneylender text and suit105/1947 costs excluded. TARGET caption physical 1/SCR893 ~32%; headnote/jurisdiction rest of page; Kapur judgment starts physical 2/SCR894 ~20%, ends physical 4/SCR896 upperquarter with appeal dismissed costs. FOLLOWING Devidas and others v Shrishailappa and others caption/coram/mortgage headnote begins physical 4 ~32% and fills lower page, excluded. Bottom896 footnotes Raja of Venkatagiri/Kamdar belong to target citations above, not next case. Headnote first says proviso30(2), but judicial quotation/reasoning clearly30(1) read30(2).

### Open cited source rendition

Headnote first calls the proviso one to 30(2); the judicial quotation and conclusion identify 30(1) read with 30(2).

Physical 1 begins with Haridas Mondal; physical 4 includes Devidas. The two bottom footnotes on 896 belong to Filmistan's citations, despite appearing beneath Devidas's headnote.

## STATUTORY SCOPE

Indian Income-tax Act,1922; 29, 30(1), 30(2), 46(1), 66A(2)

The 2011 compilation section 249(3) permits late admission for sufficient cause; 249(4) addresses admission conditions based on returned-income tax or, if no return, advance tax. Its proviso exemption is confined to clause (b). These differ from Filmistan's specific 1922 penalty-appeal condition.

2025 section 358(5) provides sufficient-cause late admission, 358(6) states payment conditions, and 358(7) confines exemption to the no-return branch. Filmistan does not automatically resolve a later admission or condonation dispute.

The holding applies the historical 1922 Act. The 2025 Act generally commences 1 April 2026; selected 536(1), (2)(a)-(e), (3)-(4) preserve earlier operation and specified proceedings. Only identified versions/passages were checked; no complete savings, amendment-history or present-case applicability assessment is claimed.

## LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted; this is not a finding that later treatment is absent.

Comprehensive subsequent history and present-law applicability remain unverified.

Primary authorities cited within this judgment are not later-use evidence.

## IDENTIFIED SOURCE LINKS

### [Income-tax Act,1961: 249\(3\)-\(4\) in2011 compilation](#)

Displayed2011; retained DOR-hosted Taxmann compilation Physical903-904/printed 1.862-1.863,249(3), (4)/provisoandnotes46-52. Only listed2011 compilation passages/images read. Footnotes are compilation annotations, not independently verified amending Acts. No fresh endpoint retrieval or current1961consolidation claim. Text pages read: 2, 903-904. Image pages read: 2, 903-904.

### [Income-tax Act,2025: 358\(5\)-\(7\)](#)

As amended byFinance Act,2026 Web18395-18407; full358context18373-18407read. Exact stated web text personally read, including cross-page continuations. No original HTML/PDF or images, whole-Act or automatic case-applicability claim.

### [Income-tax Act,2025: commencement and selectedsavings](#)

As amended byFinance Act,2026 1(1)-(3)web 0-13;536(1), (2)intro/(a)-(e)web 24385-24408;536(3)-(4)24597-24601. Notfull536. Exact stated web text personally read, including cross-page continuations. No original HTML/PDF or images, whole-Act or automatic case-applicability claim.

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