

Commissioner of Income-tax, Andhra Pradesh v. M/s. Bhikaji Dadabhai & Co.

Civil Appeal No. 434 of 1960 — One Supreme Court civil appeal by special leave. The High Court Article 226 petition mentioned in the reasons is collateral, not a separate numbered Supreme Court proceeding.

[1961] 3 SCR 923 | 1961-02-22

The savings for levy, assessment and collection preserved the Hyderabad income-tax penalty power, and the statutory appellate authority could determine objections to the assessing officer's jurisdiction.

Hyderabad Income-tax Act, read with Finance Act, 1950, section 13(1) | 1922 Act: 28 (analogy through C. A. Abraham) | 1922 Act: 44 (analogy through C. A. Abraham)

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

01 FACTS OF THE CASE

Repeal did not extinguish the saved penalty power, and a jurisdictional objection was itself appealable. The assessee's Hyderabad oil mill returned Rs.50,384 for Fasli 1357. Treating its books as unreliable, the officer assessed Rs.1,63,131 on 10 February 1950. A penalty notice had issued on 22 December 1949; the officer imposed Rs.42,000 under section 40 on 31 October 1951. Meanwhile, Finance Act, 1950 section 13 had displaced the Hyderabad Act from 1 April 1950, subject to savings. The Tribunal thought penalty power had expired and therefore no statutory appeal lay. The High Court accepted appealability but denied the surviving penalty power, also directing relief through a separate writ petition.

Source: [SCR 924-926; target passages only; shared-page exclusions recorded in read_bounds.](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court first upheld appellate competence. Where the Act made the relevant type of order appealable, the appellate authority's jurisdiction was not conditional on the officer having acted within jurisdiction. It could examine both factual and legal conclusions, including the asserted absence of power. Turning to repeal, the Court read "assessment" contextually: it could describe income computation, liability determination or the machinery for imposing liability. For the protected earlier periods, the saved levy, assessment and collection provisions included penalty machinery. C. A. Abraham had treated the analogous penalty as additional tax in explaining assessment machinery. Separate recovery provisions did not alter that conclusion. Nor did more express penalty savings for other statutes in sections 11 and 13 compel a negative implication, given their different statutory schemes.

Source: [SCR 926-929; target passages only; shared-page exclusions recorded in read_bounds.](#)

03 JUDICIAL DECISION

The officer retained power under section 40(1) to impose the penalty for the protected pre-repeal year. The first referred question had to be answered affirmatively. The Court agreed that the appeal to the Appellate Assistant Commissioner was competent and that his order was not a nullity for that reason.

Source: [SCR 926-929; target passages only; shared-page exclusions recorded in read_bounds.](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue appeal allowed; first reference answer changed to affirmative. The jurisdictional basis for denying penalty power failed. No further order on the collateral High Court Article 226 petition was considered necessary. Revenue awarded costs in the Supreme Court and High Court.

Source: [SCR 929-929; target passages only; shared-page exclusions recorded in read bounds.](#)

05 AKHB REVIEW POINT

Read the exact saving clause, protected period and penalty machinery together. A challenge to original jurisdiction does not necessarily eliminate the statutory appeal that can correct the error. Keep the "additional tax" description within this machinery-and-repeal issue; it is not a general ruling on every penalty's burden of proof, culpability or quantum. Later repeals contain their own express transitional provisions and require separate application.

Source: [SCR 926-929; target passages only; shared-page exclusions recorded in read bounds.](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: I.T.R. No. 116/5 of 1954-55

Relationship: Hyderabad High Court judgment and order dated 4 October 1956.

2.

Case numbers:

Relationship: Separate assessee Article 226 petition in the Hyderabad High Court; no number printed; no further Supreme Court order considered necessary on it.

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, SCR923-929.

Caption/coram/date p1; Civil Appeal434of1960, Hyderabad ITR116/5of1954-55, single Shah J judgment p2 onward; separately filed High Court Article226 petition pp3-4,7 not a second Supreme Court docket. Final allowance/affirmative first answer/costs p7. No neighboring judgment. Headnote April1951 at p1 conflicts with April1,1950 repeal date in judgment pp4-5,7; judgment governs. Decision concerns saved penalty power and appeal competence, not fresh independent quantum determination.

Open cited source rendition

Headnote p1 refers once to periods prior to April1951; judicial reasons pp4-5,7 identify cessation from1April1950. The judicial date controls.

The Tribunal's quoted view that no appeal lay is rejected, not adopted.

The case decides preserved jurisdiction and appeal competence, not an independent fresh merits or quantum evaluation of the Rs.42,000 penalty.

STATUTORY SCOPE

Hyderabad Income-tax Act, read with Finance Act, 1950, section 13(1); 28 (analogy through C. A. Abraham), 44 (analogy through C. A. Abraham), Hyderabad Income-tax Act, sections 40(1), 42(1); sections 31 and 39 discussed, Finance Act, 1950, sections 11 and 13, General Clauses Act, section 6 (comparison), Constitution, Article 226 (collateral proceeding)

The retained Finance Act 2011 text of section 297(2)(f) and (g) expressly differentiates penalty proceedings by whether the underlying assessment was completed before or on/after 1 April 1962. That enacted transition must be applied on its own terms; Bhikaji does not replace it.

Section 536(2)(c)-(e), Finance Act 2026 version, expressly addresses earlier-year proceedings and penalties. Those specific savings, not a presumed identity with the 1950 provision, govern the later transition.

Historical operative law is separate from the stated bounded later versions. Tax-year applicability, unexamined conditions, complete transition provisions and comprehensive subsequent judicial treatment remain unverified.

Other provisions addressed: Hyderabad Income-tax Act, sections 40(1), 42(1); sections 31 and 39 discussed; Finance Act, 1950, sections 11 and 13; General Clauses Act, section 6 (comparison); Constitution, Article 226 (collateral proceeding)

LATER TREATMENT

Source checked 2026-10-08. No specific subsequent judicial treatment independently verified for this note.

No subsequent case-specific judicial treatment independently verified; the C. A. Abraham discussion is earlier authority, not subsequent history.

Earlier authorities in the target are not later treatment. No exhaustive citator or current precedential-status conclusion.

IDENTIFIED SOURCE LINKS

[Income-tax Act,1961: bounded text comparison](#)

DOR-hosted Taxmann compilation as amended by Finance Act2011 Only the case-specific provisions identified in statutory_mapping plus versionp42. Not a current consolidated text, whole-Act or source-image review. Text pages read: 42, 1004-1005.

[Income-tax Act,2025 bounded provisions](#)

Official compilation as amended by Finance Act2026 Section 536(2)(c)-(e), Finance Act 2026 version, expressly addresses earlier-year proceedings and penalties. Those specific savings, not a presumed identity with the 1950 provision, govern the later transition. Actual bounded extracted-text reading; capture hash is not a hash of the remote PDF/HTML; no source-image or whole-Act claim.

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