

Shri Kanhaiyalal Lohia v. Commissioner of Income-tax, West Bengal

Civil Appeals Nos. 347 to 350 of 1960

[1962] 2 SCR 839 | 1961-07-17

Reference finality and exceptional direct appeal: an unused opportunity to cross-examine did not establish denial of natural justice.

Indian Income-tax Act, 1922: sections 22(2), 22(4), 26A, 34, 66(1), 66(2) and 66A | Constitution of India: Article 136

3-judge bench; unanimous judgment delivered by M. Hidayatullah, J. | S. K. Das, J. | M. Hidayatullah, J. | J. C. Shah, J.

Assessment years: 1944-45, 1945-46, 1946-47

Historical statutory setting

Historical 1922 Act reference procedure and fact-specific Article 136 ruling; no current appeal-procedure or later-treatment clearance.

Source and scope caution

The catalogue lists only Civil Appeal No.347 of 1960; the report covers Nos.347 to 350.

Additional scope caution

The introductory recital gives the Tribunal date as 18 January 1953, while the judgment repeatedly states 8 January 1953. The report also prints the partnership deed date as 5 August 1953; these chronology details are not silently corrected.

Additional scope caution

The listed assessment years appear in the factual narrative; the report does not separately map each consolidated appeal to an assessment year.

No current-law clearance

Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

01 FACTS OF THE CASE

A jute dealer claimed gifts totalling Rs.7,61,101 and transfer of purchasing centres to his brother and nephew. The Tribunal restored inclusion of the business income in his assessment. The High Court answered the referred question against him and refused further reference; neither order was appealed, and he instead challenged the Tribunal directly (SCR pp.840-844; PDF pp.2-6).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The statutory reference route could not ordinarily be bypassed once the High Court orders became final. Exceptional Article 136 intervention remained possible for circumstances not correctable through a stated question. Here, counsel obtained the adverse witness statement and requested cross-examination but failed to attend when it was offered; no natural-justice breach was shown. The Tribunal's sham-gift finding was not perverse on the evidence (SCR pp.844-847; PDF pp.6-9).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The four appeals were held incompetent and dismissed with one set of costs (SCR p.847; PDF p.9).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue on maintainability. The Court also rejected the asserted procedural injustice and perversity that were invoked to justify exceptional intervention (SCR pp.845-847; PDF pp.7-9).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: preserve the correct appellate route and challenge each adverse reference order. A natural-justice objection should identify an opportunity actually denied; failure to use a supplied statement and offered cross-examination may defeat that objection. This case does not dispense with disclosure or cross-examination generally.

Source: [Primary judgment: review point](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full 9-page SCR asset read in page-preserving text and visually inspected; no adjacent report included. Exact catalogue SHA-256 and 9 pages verified; no same-judgment publication, source-hash, citation or docket match found.

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Catalogue source 1962_2_839_847: SHA-256
d38600ead73dad9bb331f88257036196a1dfe8d8574aee7502ddd8565620524e, 9 pages, read and visually inspected in full.

The published original preserves the exact catalogue bytes and verified hash.

The source verifies identity, bench, provisions, opinion structure and operative order.

No exact source-hash, asset-ID, SCR-citation, docket or same-judgment publication match was found.

STATUTORY SCOPE

Historical 1922 Act reference procedure and fact-specific Article 136 ruling; no current appeal-procedure or later-treatment clearance.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and current statutory applicability have not been comprehensively checked; no current-law or citator clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.