

M/s. Soorajmull Nagarmull v. Commissioner of Income-tax, Calcutta (and connected appeal)

Civil Appeals Nos. 238 and 239 of 1961

[1962] Supp. 3 SCR 306 | 1962-02-19

Income-tax reference procedure: Article 136 ordinarily cannot bypass an unsuccessful section 66(2) reference route to obtain reappraisal of the Tribunal's evidence.

Indian Income-tax Act, 1922: sections 33(4) and 66(2) | Constitution of India: Article 136

3-judge bench | S. K. Das, J. | M. Hidayatullah, J. | J. C. Shah, J.

Assessment years: See the source-scope notes; no year inferred.

Historical reference procedure

The judgment concerns section 66 of the 1922 Act and a self-imposed Article 136 practice. It recognises exceptional circumstances and does not state that Supreme Court jurisdiction is absent.

01 FACTS OF THE CASE

The Income-tax Appellate Tribunal disposed of cross-appeals under section 33(4) of the 1922 Act. Both the assessee and the Commissioner asked the Calcutta High Court under section 66(2) to require a case to be stated, but those applications were dismissed. They then brought special-leave appeals against the Tribunal's order as well as appeals involving the High Court refusal. The assessee argued that, even if the High Court route failed on the merits, the Supreme Court could still consider the direct appeal against the Tribunal.

Source: [Procedural route and contention: SCR pp.307-308 / PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Applying Chandi Prasad Chhokhani, the Court explained that when a party invokes the taxing statute's reference procedure and the High Court refuses to call for a statement, Article 136 will not ordinarily be used to bypass that order by entertaining a direct appeal against the Tribunal. That preserves the statutory division between final factual appraisal by tax authorities and judicial determination of legal questions. Exceptional cases remain possible, including violation of fundamental rules of justice or loss of the High Court route for circumstances beyond the party's control. Filing an appeal against the High Court order as well as the Tribunal order made no principled difference once the High Court appeal failed. No exceptional circumstance was shown here; hearing the Tribunal appeals would impermissibly invite ordinary reappraisal of evidence. The Court stressed that Article 136's power was not restricted, but evidence review was reserved for very exceptional cases.

Source: [Ordinary anti-bypass rule, exceptions and Article 136 qualification: SCR pp.308-310 / PDF pp.3-5](#)

03 JUDICIAL DECISION

The Court found no case for requiring the Tribunal to state a reference and no exceptional circumstance justifying reappraisal of evidence through the direct Tribunal appeals. Civil Appeals Nos. 238 and 239 of 1961 were dismissed with costs, one hearing fee.

Source: [No exceptional circumstances and dismissal: SCR pp.309-310 / PDF pp.4-5](#)

04 OUTCOME / IN WHOSE FAVOUR

Neither side obtained relief on its direct challenge to the Tribunal: the assessee's and Commissioner's cross-appeals were both dismissed. This was a procedural final disposition, not a determination of the underlying tax merits in favour of either party.

Source: [Operative dismissal of both Tribunal appeals: SCR p.310 / PDF p.5](#)

05 AKHB REVIEW POINT

AKHB analysis: in a tax matter routed through a statutory reference, preserve the exact proposed questions of law and challenge an adverse reference order directly rather than assuming a parallel fact appeal will supply a second merits route. If Article 136 intervention is sought despite that sequence, identify a source-grounded exceptional circumstance such as procedural injustice; mere disagreement with evidentiary appraisal did not suffice here. Verify the currently applicable appellate statute and later authorities before relying on this historical practice rule.

Source: [AKHB analysis based on the statutory-route and exceptional-circumstance reasoning](#)

SOURCE & VERIFICATION

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

Full 5-page SCR source file read; the editorial headnote on PDF pp.1-2 was distinguished from the unnumbered judicial text beginning on PDF p.2, and neighbouring decisions were excluded.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and five-page count match catalogue asset S_1962_3_306_310; all pages were read.

The report verifies Civil Appeals Nos. 238 and 239 of 1961, the 19 February 1962 decision date and the three-member bench.

The cover headnote appears to OCR Article 136 as Article 130/186; the judicial text repeatedly and clearly identifies Article 136, which the note uses.

STATUTORY SCOPE

This procedural decision applies sections 33(4) and 66(2) of the repealed Indian Income-tax Act, 1922 together with Article 136. No current statutory crosswalk or later-treatment clearance has been undertaken.

LATER TREATMENT

Source checked 2026-10-10. Later constitutional and tax-procedure treatment has not been comprehensively checked; no present-practice or citator clearance is represented.

AI DISCLOSURE

AI-assisted research. The AKBH Review Point is editorial analysis, not part of the Court's judgment.

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