

Smt. Ujjam Bai v. State of Uttar Pradesh

Writ Petition No. 79 of 1959; CMP No. 1349 of 1961 concerning restoration of Civil Appeal No. 572 of 1960, as recorded in the final order

[1963] 1 SCR 778 | 1962-04-10

Historical constitutional-tax-jurisdiction companion: Article 32, ordinary assessment error and jurisdictional invalidity; sales-tax dispute with express Income-tax precedent analysis.

Constitution: Articles 12,19(1)(g),32,226,265 (historical setting) | UP Sales Tax Act 1948: section 4(1)(b) | 1922 Income-tax Act sections 5(7A),64 and66 discussed as precedent/machinery, not independently adjudicated

Seven-judge Bench; six favoured dismissal, with five forming the broader jurisdiction-rule majority and Ayyangar J. concurring in result on distinct reasoning; Subba Rao J. dissented | S.K.Das J. | J.L.Kapur J. | A.K.Sarkar J. | K.Subba Rao J. | M.Hidayatullah J. | N.Rajagopala Ayyangar J. | J.R.Mudholkar J.

Constitutional-tax-jurisdiction companion, not an Income-tax assessment

The actual levy was UP sales tax. The report's discussion of Income-tax precedents does not decide an Income-tax exemption, deduction, transfer or refund. Majority, separate concurrence and dissent must remain distinct.

01 FACTS OF THE CASE

A partner of Mohan Lal Hargovind Das challenged a sales-tax assessment on handmade bidis for the quarter ending 30 June 1958. A 14 December 1957 notification conditionally exempted specified goods where additional central excise duty leviable on them had been paid. Handmade bidis themselves bore no such duty. The taxpayer claimed exemption; the Sales Tax Officer rejected it. After unsuccessful proceedings, the firm allowed its Supreme Court appeal to be dismissed for non-prosecution while the partner pursued Article 32. The larger Bench considered whether an alleged misconstruction under an otherwise valid tax law could itself sustain that constitutional remedy.

Source: [Referral facts and procedural setting](#); [Official contemporaneous judgment identifies Ujjam Bai's final date](#)

02 DISCUSSION BY THE HON'BLE COURT

The five-judge majority approach distinguished an erroneous decision within a competent taxing authority's jurisdiction from action under invalid law, without jurisdiction, or contrary to mandatory procedure or natural justice. Article 32 enforces fundamental rights; it is not a general assessment appeal. Das and Kapur expressly distinguished Bidi Supply's unauthorized historical section 5(7A) Income-tax transfer and Pannalal Binjraj's amended transfer provision. Those precedents illustrate the boundary; they do not make this an Income-tax transfer case. Hidayatullah also separated tax-reference jurisdiction and constitutional remedies. Ayyangar adopted a materially wider patent-misconstruction approach but found the officer's interpretation reasonably possible and concurred in dismissal. Subba Rao dissented, would preserve Kailash Nath and would grant the taxpayer relief. Their divergent reasons cannot be combined into one unanimous rule.

Source: [Income-tax precedents and jurisdiction distinction](#); [Ayyangar's distinct formulation and application](#)

03 JUDICIAL DECISION

The final Court order dismissed Writ Petition 79 of 1959 and CMP 1349 of 1961 for restoration of Civil Appeal 572 of 1960, directing the parties to bear their own costs in both matters. The majority rejected the attempt to use Article 32 for the alleged within-jurisdiction misconstruction. Subba Rao's proposed prohibition on collection was a dissent, not the relief granted; individual proposals for costs likewise did not become the final costs order.

Source: [Final Court order](#)

04 OUTCOME / IN WHOSE FAVOUR

The State prevailed in this sales-tax writ; the taxpayer did not obtain the claimed exemption relief through Article 32 or restoration of the abandoned appeal. The ruling does not make every tax error immune from review: the majority preserved the distinction between ordinary correction through the available legal routes and a genuine constitutional or jurisdictional defect. No Income-tax assessment, exemption, refund or consequential ITO direction was decided.

Source: [Correction routes and qualifications](#)

05 AKHB REVIEW POINT

AKHB analysis: Identify the precise defect and forum before characterising a tax demand as unconstitutional. Keep statutory interpretation error, absence of jurisdiction, invalid enabling law and denial of mandatory procedure separate. The report's historical Income-tax transfer precedents help explain that distinction but do not confer a fresh Income-tax remedy. Do not use the dissent or Ayyangar's separate patent-error theory as the majority holding, or treat this 1962 decision as present-day clearance to bypass or deny statutory remedies. Independently check current constitutional provisions, applicable tax procedure, later authorities and limitation before reliance.

Source: [Jurisdiction and error distinction](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

All 213 report pages read, including 1961 referral and all seven 1962 opinions. Headnotes SCR 778-786; referral 787-821; Das 821-843; Kapur 843-881; Sarkar 881; Subba Rao 881-922; Hidayatullah 922-945; Ayyangar 945-976; Mudholkar 976-990; final Court order 990. No adjacent judgment. This is a constitutional-tax-remedy companion, not an Income-tax merits decision.

Open cited source rendition

Final judgment date: 10 April 1962, expressly introduced at SCR 821 and independently identified in the contemporaneous British India Corporation judgment (20 August 1962), official Court PDF page 4 / SCR 647. The cover prints 28 April 1962; the earlier reference was 28 April 1961. The inconsistent cover is disclosed, not silently adopted or erased.

The introductory docket at SCR 786 prints Civil Appeal 172 of 1960; the judicial narrative and final Court order at SCR 990 identify Civil Appeal 572 of 1960. This note follows the final Court order and discloses the discrepancy.

Individual opinions differ on proposed costs. The final Court order directs the parties to bear their own costs in both matters.

STATUTORY SCOPE

Historical constitutional/sales-tax ruling. The Income-tax transfer and reference provisions occur in precedent analysis; they were not applied to determine any Income-tax assessment in this case. No automatic successor-law mapping is made.

LATER TREATMENT

Source checked 2026-10-18. Judgment as reported; subsequent treatment and present statutory/constitutional applicability have not been comprehensively verified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 213

SHA-256: c43389b2d8f48777c8ab95f888427cb2f5d8e8163d9ab8a9e362edad39f30dc9

Related note: K. S. Venkataraman & Co. v. State of Madras

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report. Independent human review is not represented.

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General legal and tax research only; not legal or tax advice. Verify the complete judgment, operative order, applicable statutory version and subsequent treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.