

M. Chockalingam and Another v. Commissioner of Income-tax, Madras and Another

Civil Appeals Nos. 37 to 40 of 1962

[1963] Supp 1 SCR 599 | 1962-10-12

Rectification and natural justice: advance-tax interest could not be added under section 35 without the notice and hearing required for an enhancement.

Indian Income-tax Act, 1922: sections 18A(2), 18A(3), 18A(6), fifth proviso, 18A(8), 33A and 35 | Income-tax Rules, 1922: rule 48 | Constitution of India: Article 226

Three-judge bench; unanimous judgment delivered by M. Hidayatullah, J. | J. L. Kapur, J. | M. Hidayatullah, J. | J. C. Shah, J.

Assessment years: 1951-52, 1952-53

Procedural outcome only

The Court quashed no-notice rectification orders. It did not finally waive the interest or prevent the Income-tax Officer from taking lawful further action.

Historical statutory setting

The ruling interprets sections 18A and 35 and rule 48 under the repealed Indian Income-tax Act, 1922.

No current-law clearance

Later judicial treatment and correspondence with current rectification and advance-tax regimes have not been comprehensively checked.

01 FACTS OF THE CASE

Following recognition of a partial family partition, brothers Chockalingam and Meyyappan were assessed individually for assessment years 1951-52 and 1952-53. They had not paid advance tax on their own estimates. The Income-tax Officer initially omitted section 18A(8) interest, then in 1956 used section 35 to add four interest demands without giving either brother notice. Their section 33A revision applications were rejected without a hearing. The Madras High Court dismissed their Article 226 petitions, treating absence of notice as a merely procedural defect that caused no prejudice.

Source: [Primary judgment: assessment history, no-notice rectification and High Court disposition](#)

02 DISCUSSION BY THE HON'BLE COURT

The proviso to section 35 expressly required notice and a reasonable hearing where rectification enhanced an assessment or reduced a refund. Although section 18A(8) required interest to be calculated in the manner laid down in section 18A(6), the Court held that subsection (6) applied with all its provisos, including the fifth proviso and rule 48 discretion to reduce or waive interest. That discretion applied mutatis mutandis to a case of no advance-tax payment as well as part payment. A hearing was therefore not futile: the appellants could have placed their unsettled earlier assessments and settlement circumstances before the competent authority. Tax authorities had to act judicially, and adding interest plainly enhanced the total amount payable. Failure to give the expressly required hearing was a breach of natural justice.

Source: [Primary judgment: section 35 notice requirement and historical statutory framework](#); [Primary judgment: fifth proviso, rule 48 discretion and hearing prejudice](#); [Primary judgment: judicial action and meaning of enhancement](#)

03 JUDICIAL DECISION

The Supreme Court allowed all four appeals, directed certiorari to issue and quashed the Income-tax Officer's rectification orders. It expressly left the officer free to take such further action as might lawfully be open. Each side was directed to bear its own costs in the Supreme Court and High Court.

Source: [Primary judgment: operative order](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee on procedural fairness. The no-notice enhancement orders were quashed, but the Court did not decide that interest must be waived and did not foreclose lawful fresh action after due process.

Source: [Primary judgment: procedural relief and preserved further action](#)

05 AKHB REVIEW POINT

AKHB analysis: when rectification increases tax, interest or another amount payable, first identify the governing year's notice-and-hearing provision and any discretion that the taxpayer could invoke. Do not dismiss a missed hearing as harmless merely because the charging text appears mandatory; connected provisos and rules may preserve waiver or reduction discretion. Also distinguish quashing for want of hearing from substantive cancellation of liability. This judgment is under the 1922 Act, so the current rectification and advance-tax statutes must be checked independently.

Source: [Primary judgment: basis for AKHB review point](#)

SOURCE & VERIFICATION

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

Full eleven-page SCR asset read and visually inspected; the following Jadavji Narsidas report beginning on PDF p.11 was separated from this judgment.

[Open cited source rendition](#)

Catalogue asset S_1963_1_599_609: SHA-256

a765f61b4f3d737d57a039d129655081fd278d728955411a1029ff2b2b822a9a and eleven-page count both matched the downloaded source.

The judgment text verifies Civil Appeals Nos. 37 to 40 of 1962, not merely Civil Appeal No. 37 as abbreviated in catalogue metadata.

The source verifies decision date 12 October 1962, the three-member bench and Hidayatullah J. as author.

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

STATUTORY SCOPE

The decision concerns repealed section 18A, section 35 and rule 48 under the Indian Income-tax Act, 1922. Its specific interest-waiver and rectification framework must not be applied automatically to later statutes or tax years.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment and present 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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