

Income-tax Officer, A-Ward, Sitapur v. Murlidhar Bhagwandas, Lakhimpur Kheri

Civil Appeal No. 130 of 1962

[1964] 6 SCR 411 | 1964-01-29

Historical reassessment limitation: an appellate finding or direction for one assessment year could not lift section 34 limitation for a different year outside the appellate authority's jurisdiction.

Indian Income-tax Act, 1922: sections 22(2), 22(4), 23(3), 23(4), 27, 31, 33, 33A, 33B, 34(1)(a), second proviso to section 34(3), 66 and 66A | Constitution of India: article 14 (addressed in the dissent)

5-judge bench (3:2) | B. P. Sinha, C.J. | K. Subba Rao, J. | Raghubar Dayal, J. (dissenting) | N. Rajagopala Ayyangar, J. | J. R. Mudholkar, J. (dissenting)

Assessment years: 1949-50, 1948-49

Split decision

Subba Rao J. spoke for B. P. Sinha C.J., Rajagopala Ayyangar J. and himself. Mudholkar J. spoke for Raghubar Dayal J. and himself in dissent; the dissent would have upheld the cross-year notice and allowed Revenue's appeal.

Different assessment year was decisive

The majority treated each assessment year as a separate unit. The appellate authority could delete the interest from 1949-50, but its statement that the amount belonged to 1948-49 was not a necessary finding for the year under appeal and its direction to assess that other year exceeded section 31.

Finding, direction and any person are confined terms

A qualifying finding must be necessary to dispose of the appeal; a qualifying direction must be one the appellate or revisional authority is empowered to give. 'Any person' was confined to a person intimately connected with the assessment of the year under appeal, not a general power to assess strangers or other years without limitation.

No res judicata does not remove limitation

The Court noted that an income-tax decision for one year does not operate as res judicata for later years, but that proposition did not expand appellate jurisdiction or independently revive a time-barred assessment.

Historical authority only

The judgment applies the repealed 1922 Act and contains no current-law clearance. Any use under later reassessment and appellate-direction provisions requires a fresh statutory and precedential check.

01 FACTS OF THE CASE

The respondent firm was first assessed ex parte under section 23(4) for assessment year 1949-50. Before that assessment was cancelled under section 27, the officer found Rs. 88,737 of interest represented by U.P. Encumbered Estates Act bonds received in discharge of third-party debts and issued a section 34(1)(a) notice for 1949-50. After cancellation, the officer included the amount in the fresh 1949-50 assessment. On 4 December 1957 the Appellate Assistant Commissioner held that the bonds had been received in the previous accounting period, deleted the amount from 1949-50, and directed the officer to assess it for 1948-49. Acting on that direction, the officer served a new section 34 notice for 1948-49 on 5 December 1957. The Allahabad High Court quashed it as beyond the ordinary limitation period (SCR pp.411-416; PDF pp.1-6).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

For the majority, section 34(3)'s second proviso removed a limitation bar only so that a lawful appellate, revisional or reference order could be implemented; it did not enlarge the jurisdiction conferred by sections 31, 33, 33B, 66 or 66A. Because the assessment year is the statutory unit, relief and directions in an appeal ordinarily concern the year under review (SCR pp.416-422; PDF pp.6-12). A 'finding' was a determination of a material issue necessary to dispose of that appeal, not an incidental view on another year. Here it was necessary to find only that the interest did not belong in 1949-50; locating it in 1948-49 was incidental. A 'direction' likewise meant one authorised by the governing appellate provision, and 'any person' remained confined to someone intimately connected with the same year's assessment and income (SCR pp.422-426; PDF pp.12-16). Mudholkar J.'s dissent treated the appellate conclusion on the true year of receipt as a competent finding, read the proviso as lifting limitation for the consequential 1948-49 proceeding, and rejected the article 14 attack on the resulting classification (SCR pp.426-437; PDF pp.16-27).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The majority held that the second proviso to section 34(3) did not save limitation for escaped income of a year other than the year under appeal. The 1948-49 section 34(1)(a) notice was therefore clearly barred. The Court dismissed Revenue's appeal with costs. Raghubar Dayal and Mudholkar JJ. dissented and would have allowed the appeal, quashed the High Court's writ, and left the completed reassessment to stand subject to lawful proceedings (SCR pp.426 and 437; PDF pp.16 and 27).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee/respondent by a 3:2 majority. The cross-year reassessment notice remained quashed as time-barred; this was a final limitation ruling, not a remand or a merits determination that the Rs. 88,737 could never be taxable in the proper year (SCR pp.426 and 437; PDF pp.16 and 27).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: map the year actually under appeal, identify the exact issue necessary to dispose of that appeal, and separate it from observations about a different year or taxpayer. Then test whether the appellate body had statutory power to give the stated direction before relying on any exception to limitation. Preserve the distinction between a necessary finding, an incidental observation, and a lawful direction; also preserve the 3:2 split and the repealed 1922 Act setting. Do not treat the no-res-judicata principle as an independent power to reopen, and do not apply the result to present reassessment law without a fresh statute-and-precedent review (based on SCR pp.420-426 and 429-437; PDF pp.10-16 and 19-27).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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Full 27-page SCR report read and checked. The editorial headnote and adjacent-report boundary text were distinguished from the judicial opinion and operative order.

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Exact source bytes, SHA-256 and 27-page count match catalogue asset 1964_6_411_437; every page was reviewed.

The source verifies Civil Appeal No. 130 of 1962, the stated bench, issues, reasoning and operative result. No published or archived standalone AKHB note with this source hash, case identity and operative decision was found.

STATUTORY SCOPE

The Court construed the Indian Income-tax Act, 1922, including section 34 as amended by the 1953 and 1956 legislation, in relation to assessment years 1949-50 and 1948-49. The decision does not certify the operation of the Income-tax Act, 1961, later limitation provisions, or current reassessment law.

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.

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