

Commissioner of Income-tax, Bombay and Another v. Ishwarlal Bhagwandas and Others

Civil Appeals Nos. 1003 and 1004 of 1963

[1966] 1 SCR 190 | 1965-05-01

Advance-tax interest rectification: retrospectively effective waiver discretion and civil-proceeding jurisdiction.

Indian Income-tax Act, 1922: sections 18A, 23B, 33A and 35; rule 48 | Constitution of India: Articles 132, 133, 134, 136 and 226

5-judge bench; 4:1 majority by J. C. Shah, J.; J. R. Mudholkar, J. dissenting on the tax merits. | P. B. Gajendragadkar, C.J. | K. N. Wanchoo, J. | J. C. Shah, J. | J. R. Mudholkar, J. | S. M. Sikri, J.

Assessment years: 1948-49

Historical statutory setting

Historical advance-tax interest, rectification and constitutional certificate-appeal rules do not state current law.

Fact, opinion and procedural limits

Apply the holding only within the facts, statutory text, opinion structure and procedural posture described in the primary report.

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

The regular assessment omitted section 18A(6) interest. After audit, the officer rectified and added Rs.14,929-10-0; the Commissioner sustained liability but shortened the period. The High Court quashed the orders, leading to certificate appeals (SCR pp.192-193; PDF pp.3-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

A tax writ protecting civil rights was a civil proceeding under Article 133. On merits, the majority read the retrospectively effective fifth proviso with later rule 48 and held waiver/reduction discretion had to be considered before treating the omission as an apparent mistake. Mudholkar J. saw an obvious oversight and would uphold rectification (SCR pp.193-209; PDF pp.4-20).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

Revenue's appeals were dismissed with costs and one hearing fee; the 4:1 majority left the High Court quashing intact (SCR pp.205, 209; PDF pp.16, 20).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee on procedure, without a declaration that interest could never be charged (SCR pp.200-205; PDF pp.11-16).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: where retrospective discretion depends on prescribed rules, read the enabling provision and rule together from the deemed date. Verify discretionary waiver before rectifying an omitted interest charge; preserve the dissent and jurisdiction ruling (based on SCR pp.193-209; PDF pp.4-20).

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

SOURCE & VERIFICATION

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

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

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

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

STATUTORY SCOPE

Historical advance-tax interest, rectification and constitutional certificate-appeal rules do not state current 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.

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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