

Commissioner of Income-tax, Calcutta v. Bidhu Bhushan Sarkar (dead), through legal representative Mihir Kumar Sarkar

Civil Appeal No. 401 of 1965

[1967] 1 SCR 685 | 1966-10-03

Reassessment procedure: an order marking a case 'filed' terminated the first proceeding, permitting a fresh section 34 notice and assessment within the statutory extension.

Indian Income-tax Act, 1922: sections 5(7A), 22(2), 23(2), 34(1)(a), 34(3), 66(1) and 66A(2)

3-judge bench | J. C. Shah, J. | V. Ramaswami, J. | V. Bhargava, J.

Assessment years: 1947-48

Repealed reassessment regime

The ruling turns on sections 5(7A) and 34 of the 1922 Act, an eight-year notice period and the then one-year completion rule. Do not transplant those periods to current law.

01 FACTS OF THE CASE

For AY 1947-48 the assessee filed one voluntary loss return in December 1947 and another in March 1949. An Additional Income-tax Officer issued a section 34 notice in February 1950 but, knowing that a proceeding concerning military-contract income was before the principal officer, ordered on 4 February 1952 that the income should be taken in that other assessment and 'the case is, therefore, filed.' The principal officer's first reassessment was set aside at his own request for want of jurisdiction. After the Commissioner transferred the assessee's case to him, the principal officer issued a fresh section 34 notice on 11 February 1956 and assessed on 2 May 1956. The first appellate authority accepted the assessee's objections that the earlier proceeding remained pending and that limitation had expired; the Tribunal reversed, but the Calcutta High Court ruled for the assessee.

Source: [Returns, competing proceedings, transfer, later notice and reference questions: SCR pp.686-689 / PDF pp.2-5](#)

02 DISCUSSION BY THE HON'BLE COURT

Reading the Additional Officer's order in context, the Court held that 'filed' meant 'disposed of': he intended to drop his proceeding because the same income was expected to be assessed by the senior officer, not keep a parallel case dormant. Even if that termination order were legally erroneous, it remained effective until set aside; an invalid but jurisdictionally cognisable closing order is not a non-existent order. The Court also rejected the High Court's inference that the later transfer order proved a pending proceeding. The explanation to section 5(7A) used 'case' comprehensively, covering pending proceedings and proceedings to be instituted in future, so transfer did not depend on a live reassessment. Once jurisdiction was transferred, the principal officer validly issued the 11 February 1956 notice before expiry of eight years from AY 1947-48. Section 34(3) then permitted completion within one year of that notice, making the 2 May 1956 assessment timely.

Source: [Contextual meaning and effect of 'filed': SCR pp.690-692 / PDF pp.6-8](#); [Section 5\(7A\) transfer and section 34 limitation: SCR pp.693-694 / PDF pp.9-10](#)

03 JUDICIAL DECISION

The Court set aside the High Court's answers. It answered the first question affirmatively—the principal officer's later notice and assessment were valid—and the second negatively—the assessment was not barred by time. The Commissioner's appeal was allowed with costs.

Source: [Validity, limitation and operative answers: SCR pp.693-694 / PDF pp.9-10](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Revenue. The later reassessment notice and resulting assessment survived; the High Court's contrary answers were displaced and the appeal was allowed with costs. The outcome rests on the specific 1952 order and the historical 1922 Act time limits.

Source: [Revenue outcome and operative relief: SCR pp.693-694 / PDF pp.9-10](#)

05 AKHB REVIEW POINT

AKHB analysis: when an assessment file contains ambiguous closure language, do not read the isolated label alone. Preserve the complete order, the officer's stated reason, contemporaneous parallel proceedings, jurisdiction orders and any challenge to the closure. Separately map the date of notice, governing outer limit and completion extension under the statutory version actually applicable. The historical conclusion that even an erroneous termination remained effective until displaced should not be used as a shortcut around present appeal, reopening, transfer or electronic-workflow rules.

Source: [AKHB analysis based on contextual closure, transfer and limitation reasoning](#)

SOURCE & VERIFICATION

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

Full 10-page SCR source file read. The editorial headnote on PDF pp.1-2 was separated from the unnumbered judicial reasons on PDF pp.2-10; the complete operative judgment was reviewed.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and ten-page count match catalogue asset 1967_1_685_694; every page was read.

The judicial text verifies Civil Appeal No. 401 of 1965, decision date 3 October 1966 and the three-member bench.

The Court treated 'filed' as 'disposed of' on the particular wording and surrounding circumstances; it did not declare that every archival or filing notation terminates proceedings.

No title, citation or party match for this judgment was found in the existing published case collection or reviewed archive.

STATUTORY SCOPE

This decision applies reassessment, transfer and limitation provisions of the repealed Indian Income-tax Act, 1922. It does not establish the effect of administrative closure language under the current Income-tax Act or present electronic assessment procedures.

LATER TREATMENT

Source checked 2026-10-10. Later judicial treatment and current reassessment/transfer law have not been comprehensively checked; no current-law or citator clearance is represented.

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