

Commissioner of Income-tax, Calcutta v. Rai Bahadur Hardutroy Motilal Chamaria

Civil Appeal No. 535 of 1966

[1967] 3 SCR 508 | 1967-04-07

Section 31 enhancement jurisdiction under the 1922 Act: the Appellate Assistant Commissioner could range over sources considered for taxability in the assessment, but could not tax a different source that the officer had mentioned only incidentally to test another entry.

Indian Income-tax Act, 1922: sections 13, 31(3), 33B, 34 and 66(1)

3-judge bench; unanimous judgment delivered by V. Ramaswami, J. | J. C. Shah, J. | S. M. Sikri, J. | V. Ramaswami, J.

Assessment years: 1952-53

Wide appellate power, but no new source

The Appellate Assistant Commissioner could correct matters outside the assessee's grounds and revise processes leading to assessment, but only within sources considered expressly or by clear implication from the standpoint of taxability.

Incidental mention was insufficient

The officer used the Rs.5,85,000 same-day remittance only to test the genuineness of three alleged loans. That collateral examination did not amount to considering the remittance itself as a taxable source.

The underlying loan additions were distinct

The officer had added three alleged loans totalling Rs.4,30,000 as secret profits. The challenged appellate enhancement ultimately stood at Rs.1,55,000 and concerned the different Rs.5,85,000 remittance source.

No merits ruling on whether the remittance was income

The Supreme Court decided jurisdiction, not the factual taxability of the remittance. Its judgment did not authenticate the entries or immunise any properly initiated proceeding available under the governing statute.

Source-date conflict

The source catalogue records 7 April 1967, but the retained report's signed caption prints 1 April 1967. This note follows the primary report for the case date and preserves the catalogue conflict expressly.

01 FACTS OF THE CASE

For assessment year 1952-53, the assessee claimed three Nepal loans of Rs.2,50,000, Rs.1,50,000 and Rs.30,000. The officer treated the Rs.4,30,000 total as secret profits shown falsely as loans. In testing those entries, he noted that on 31 March 1952 the Calcutta office withdrew Rs.5,30,000 and purportedly sent Rs.5,85,000 to the Forbesganj branch the same day, an implausible physical transfer. On the assessee's appeal, the Appellate Assistant Commissioner confirmed the loan additions and separately treated the remittance as unexplained income, adding Rs.4,05,000 after an allowance. The Tribunal upheld the power to enhance but reduced that enhancement to Rs.1,55,000. The Calcutta High Court held there was no section 31 jurisdiction over the new source (SCR pp.508-511; PDF pp.1-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court reconciled the breadth of section 31 with its established new-source limit. Once an assessee appealed, the Appellate Assistant Commissioner's competence was not confined to the specific grievance and could extend across the assessment processes and sources actually considered; the appeal also could not simply be withdrawn to halt that statutory inquiry (SCR pp.511-515; PDF pp.4-8). Yet enhancement did not extend to a source never processed for taxability by the officer. Consideration meant express or clearly implied application of mind to whether that source was taxable or non-taxable, not an incidental or collateral use during another inquiry. Here the officer cited the Rs.5,85,000 transfer only to test the genuineness of the Rs.4,30,000 loan entries. The Appellate Assistant Commissioner therefore could not tax the remittance itself as a different source in the pending appeal (SCR pp.515-517; PDF pp.8-10).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Supreme Court affirmed the High Court's answer that the Appellate Assistant Commissioner lacked jurisdiction to enhance the assessment on the Rs.5,85,000 remittance source and dismissed Revenue's appeal with costs (SCR p.517; PDF p.10).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee on appellate jurisdiction. The Rs.1,55,000 enhancement could not be sustained under section 31 because the officer had not considered the remittance as a taxable source; the Court did not decide whether the remittance was factually income (SCR pp.516-517; PDF pp.9-10).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: for an enhancement dispute, build a source-by-source matrix from the return and assessment order. Record whether the officer merely noticed a fact, used it collaterally, or actually applied mind to that source's taxability. Separate the appellate authority's power to revisit an assessed source from the use of distinct statutory machinery for a genuinely new source, and do not convert a jurisdictional win into a merits finding (based on SCR pp.511-517; PDF pp.4-10).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 10-page SCR report read and checked. The editorial headnote and adjacent-report boundary text were distinguished from the judicial opinion and operative order.

[Open cited source rendition](#)

Exact source bytes, SHA-256 and 10-page count match catalogue asset 1967_3_508_517; every page was reviewed.

The source verifies Civil Appeal No. 535 of 1966, 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 judgment construes the Appellate Assistant Commissioner's powers under section 31(3) of the repealed Indian Income-tax Act, 1922 and the then companion reopening and revision provisions. It does not purport to settle the present scope of sections 147, 251, 263 or other current appellate and reassessment provisions. No current-law or later-treatment clearance was undertaken.

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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General legal and tax research only; not legal or tax advice. Verify the original judgment, the governing historical statute and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.