

Sundaram & Company (P.) Ltd., Madurai v. Commissioner of Income-tax, Madras

Civil Appeal No. 2453 of 1966

[1967] 3 SCR 798 | 1967-04-25

Historical section 34(1)(b) reassessment and super-tax rebate: 'assessed at too low a rate' could include failure to apply a statutory rebate-reduction measure, but the High Court had to decide whether the actual notice validly initiated that reassessment.

Indian Income-tax Act, 1922: sections 23A, 34(1)(b) and 66 | Finance Act, 1956: section 2 and First Schedule, Part II, Paragraph D

2-judge bench; unanimous judgment delivered by J. C. Shah, J. | J. C. Shah, J. | V. Ramaswami, J.

Assessment years: 1956-57

Remand was not a final merits victory

The Supreme Court did not validate or quash the reassessment. It sent the matter back because the notice was absent from its paper book and the High Court had not decided whether that notice supported the ground ultimately relied upon.

Revenue won only the rate-construction issue

The Court agreed that a statutory standard or measure can be a rate even if it is not a simple fraction of total income. That holding did not cure every possible defect in initiation.

Excessive relief and too-low-rate grounds remained distinct

The excessive-relief ground could not be sustained in light of Simplex Mills. The unresolved question was whether a notice issued on that footing could support reassessment because the assessee was allegedly assessed at too low a rate.

Printed caption punctuation normalized

The report caption prints the company's description as '(P,) Ltd.' The note uses the conventional '(P.) Ltd.' while retaining the same party identity; no different entity is inferred.

01 FACTS OF THE CASE

For 1946-47 to 1951-52, section 23A orders deemed Rs. 3,54,716 distributed by Sundaram & Company; in July 1955 the company resolved to distribute that amount and credited shareholders. For assessment year 1956-57 the Income-tax Officer assessed total income of Rs. 5,69,396 and granted a super-tax rebate under the Finance Act, 1956. Believing 'excessive relief' had been granted, he issued a section 34(1)(b) notice on 21 January 1959 and withdrew Rs. 80,978 of rebate. The Appellate Assistant Commissioner limited the relevant distribution to Rs. 77,600. The Tribunal found none of section 34(1)(b)'s situations applicable but maintained that limited computation. On reference, the Madras High Court rejected excessive relief yet held that the assessee had been assessed at too low a rate (SCR pp.799-802; PDF pp.2-5).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court reframed the defective third reference question to ask whether the Income-tax Officer was competent to initiate reassessment for the excessive rebate. It accepted that, under section 34(1)(b), 'rate' was not confined to a numerical fraction of total income: it could mean a prescribed standard or measure, so failure to apply the Finance Act's rebate reduction could amount to assessment at too low a rate (SCR pp.802-806; PDF pp.5-9). But validity of initiation remained a separate issue. Sundaram had challenged the proceeding itself, and the notice reportedly invoked excessive relief rather than too-low-rate assessment. The High Court was obliged to decide that aspect even if it had not been specifically argued before the Tribunal. Because the notice was not in the Supreme Court paper book, the Court could not answer the question itself (SCR pp.806-807; PDF pp.9-10).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court remanded the matter to the Madras High Court to obtain a supplementary statement if necessary and determine whether the section 34(1)(b) proceeding was validly initiated on the notice actually issued. Costs in the Supreme Court were made costs in the High Court (SCR p.807; PDF p.10).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

Mixed and procedural. The Revenue prevailed on the proposition that the rebate-reduction measure could be a 'rate', but Sundaram secured a remand on jurisdictional notice validity. The reassessment's final validity was left for the High Court (SCR pp.806-807; PDF pp.9-10).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: in a reassessment dispute, separate the substantive proposition said to justify adjustment from the jurisdictional ground communicated in the notice. A correct merits theory does not answer whether proceedings were validly initiated on the notice actually served. Preserve the complete notice and reference record before advising on outcome, and do not treat this historical remand as a present-law reassessment rule (based on SCR pp.802, 806-807; PDF pp.5, 9-10).

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_798_807; every page was reviewed.

The source verifies Civil Appeal No. 2453 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 case concerns former section 34(1)(b), section 23A deemed dividends and the 1956 super-tax rebate schedule under the repealed 1922 Act. It does not state the notice, jurisdiction or rate rules under a later enactment. No current-law or comprehensive 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.