

Kalawati Devi Harlalka v. Commissioner of Income-tax, West Bengal and Others

Civil Appeal No. 1421 of 1966

[1967] 3 SCR 833 | 1967-05-01

Could the Commissioner initiate section 33B revision in January 1963 after repeal of the 1922 Act, and were section 297(2)(a), General Clauses Act section 6, and section 298 with the 1962 Order capable of supporting that jurisdiction?

297(1) and 297(2)(a) | 297(2)(b)-(m) (context for transitional construction) | 298(1)-(2) (removal of difficulties power)

Three judges | J.C. Shah, J. | S.M. Sikri, J. | V. Ramaswami, J.

Assessment years: 1952-53, 1953-54, 1954-55, 1955-56, 1956-57, 1957-58, 1958-59, 1959-60, 1960-61

Historical revision saving with an express later section 6 qualification

Kalawati sustains initiation of old-Act section 33B revision through section 297(2)(a) and section 298 with the 1962 Order; it does not decide the truth of the notice allegations or a final tax liability. Later Baliah confines its broad General Clauses Act language: section 6 is displaced only where the particular subject shows a contrary legislative intention, and prosecutions were not exhaustively covered by section 297. The 1962 Order is verified as reproduced in the judgment, and the 2011 compilation contains later material rather than the complete 1967 text. Original PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

On 24 January 1963 the Commissioner of Income-tax, West Bengal, sent Kalawati Devi Harlalka a notice proposing revision under section 33B of the 1922 Act of nine assessments for 1952-53 to 1960-61. Those assessments had been made on 7 February 1961. The notice asserted that the assessments were erroneous and prejudicial to revenue: enquiries allegedly showed no business at the declared address, and the officer had accepted initial capital, jewellery transactions, business income and a gift without proper enquiry or evidence. These were the Commissioner's grounds for proposing revision, not findings of tax evasion or taxable income made by the Supreme Court (physical 2-3/SCR 834 E-835 C).

The notice fixed 1 February 1963 for hearing and invited written objections with evidence. On that date the assessee protested and sought Article 226 relief in the Calcutta High Court to quash the notice and restrain further action. Her challenge was that repeal of the 1922 Act on 1 April 1962 removed the Commissioner's power to begin revision, that section 6 of the General Clauses Act did not save a proceeding not already begun, and that the removal-of-difficulties power could not supply missing jurisdiction. A single judge dismissed the petition; the Division Bench dismissed her appeal on 8 December 1964. The Supreme Court heard her certificate appeal under Article 133, with an intervener also represented (physical 2-3/SCR 834 C-835 H; physical 8/SCR 840).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

Section 33B authorised revision of an Income-tax Officer's order considered erroneous and prejudicial to revenue, after an opportunity to the assessee and such enquiry as necessary. Its quoted subsection (2) excluded revision of a section 34 reassessment and prescribed a two-year limit from the order sought to be revised. The dispute before this Court, however, was the survival of revision jurisdiction after repeal; the Court did not decide the truth of the notice's allegations or the merits of any eventual revision order (physical 3-4/SCR 835 H-836 C).

The Court held that proceedings for assessment in section 297(2)(a) included section 33B revision. It rejected the assessee's attempt to confine assessment to the original computation stage. Khemchand Ramdas, Lakshman Shenoy, Abraham and Bhikaji Dadabhai illustrated the term's potentially comprehensive meaning; the Patiala Cement and Bhailal Amin authorities showed the role of appellate procedure in earlier tax-transition schemes. Meaning remained context-dependent, but the relevant context covered the process of ascertaining and imposing tax liability (physical 9-13/SCR 841 E-845 E).

Section 297 supplied a detailed transition scheme for unfinished assessments, returns filed after commencement, pending appeals and revisions, escaped income, penalties, elections, refunds, recovery, notifications and limitation. Against that scheme it was implausible that Parliament had omitted future appeals and revisions against old-Act assessments already made, or authorised to be made under clause (a). The broad construction of clause (a) therefore supported initiation of revision even though that revision was not itself pending on 1 April 1962. The Court did not substitute the High Court's tentative General Clauses Act reasoning for this express saving construction (physical 8-9/SCR 840-841; physical 13-14/SCR 845 A-846 B).

The judgment stated that section 6 of the General Clauses Act did not apply because section 297(2) manifested a contrary intention: some of its detailed provisions matched the general saving rule and others departed from it. That language arose in the particular transition and revision dispute. Later Supreme Court explanation confines it to matters for which Parliament has clearly supplied contrary detailed provisions; it must not be converted into an exclusion of section 6 from every subject left unmentioned by section 297 (physical 13-14/SCR 845 E-846 B; later Baliah physical 7-8/SCR 71-72).

There was also the section 298 route. The 1962 Removal of Difficulties Order, described by the judgment as Gazette-published on 8 August 1962, provided in clause 4 for appeals, references and revisions concerning old-Act orders to be instituted and disposed of as if the 1961 Act had not passed. The Court held that clause 4 covered this notice and rejected the challenge to section 298. Dewan Bahadur Ramgopal Mills had upheld a comparable tax-transition order; although that earlier attack was on the order, its reasoning supported the enabling section as well. Jalan Trading was distinguished because the language of section 37 of the Bonus Act differed and that Act was not a taxing statute. Section 298 itself limited the power to action consistent with the Act; this was not approval of an unlimited executive

02 DISCUSSION BY THE HON'BLE COURT

power to rewrite tax law (physical 6-8/SCR 838 E-840 A; physical 14-15/SCR 846 C-847 B).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

The Supreme Court dismissed Civil Appeal 1421 of 1966 with costs. The Commissioner's jurisdiction to initiate the section 33B revision was sustained under the comprehensive meaning of section 297(2)(a), with section 298 and clause 4 of the 1962 Order also upheld as supporting the notice. The assessee did not obtain quashing or restraint. No addition to taxable income, final revision order, penalty, finding that the notice allegations were true, or separate relief for the intervenor was adjudicated (physical 9/SCR 841 E; physical 14-15/SCR 846 B-847 closing order).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on post-repeal jurisdiction to initiate the proposed revision

Assessee's Civil Appeal 1421 of 1966 dismissed with costs; notice not quashed

Reasoned 1961 Act repeal/savings and enabling-power holdings; merits of the proposed section 33B revision and tax liability not decided

The notice could initiate revision; the allegations, eventual revision order, quantum and compliance with any later procedural requirements were not decided. No separate disposition for the recorded intervenor.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Identify the particular transitional route before asking whether an old power survived repeal. Clause (a) turns on a return filed before commencement; clause (c) concerns proceedings already pending; other clauses address different subjects. Kalawati allows the assessment process saved by clause (a) to include a later revision. It does not make the date of the assessment year the sole test, revive every time-barred power, or replace the conditions of section 33B with a general revenue-protection discretion.

The most important qualification concerns General Clauses Act section 6. In T.S. Baliah v. T.S. Rengachari (12 December 1968), the Supreme Court expressly explained Kalawati by reference to Damodar Bhat: section 6 is displaced for matters where contrary legislative intention is shown by detailed provision, not universally. Section 297 did not comprehensively address prosecutions, so Baliah allowed the general saving rule to operate for an old-Act offence. Its separate objection based on an earlier penalty and section 28(4) was left open for the trial court, so the later decision did not finally validate every aspect of the prosecution (physical 7-10/SCR 71-74).

Sankappa subsequently applied Kalawati's assessment construction to old-Act rectification saved by section 297(2)(a); J.K. Commercial Corporation later relied on that contextual breadth while explaining a mistaken use of Sankappa. Those decisions do not collapse revision, rectification and assessment into interchangeable powers. Each still requires its own enabling conditions (Sankappa physical 5-6/SCR 678-679; J.K. Commercial physical 4 and 6-7/SCR 515, 517-518).

For statutory research, retain the version distinction. The government-hosted 2011 compilation reproduces the saving language but includes later material, including section 298(3)-(4) and amendment footnotes concerning other parts of section 297. It corroborates context, not the exact entirety of the 1967 text or the original Gazette text of the 1962 Order. The Order is verified here only as reproduced and adjudicated in the primary judgment. Full amendment history, current applicability and a 2025 Act crosswalk remain unverified (compilation physical 1004-1006/printed 1.963-1.965).

Source: See the proposition-specific paragraph and PDF-page references below.

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 1421 of 1966

Outcome: Dismissed with costs

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, nine assessment years, assessment date, notice allegations and writ challenge

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: SCR 833 heading; 834 C-835 H

2.

Topic: Historical section 33B conditions and section 297 scheme

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6

Paragraphs: SCR 835 H-838 E

3.

Topic: Section 298 and the 1962 Order including clause 4

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: SCR 838 E-840 A

4.

Topic: Counsel submissions and Court's actual section 297(2)(a) construction

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12; 13; 14

Paragraphs: SCR 841-846 B

5.

Topic: Contextual section 6 contrary-intention reasoning

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: SCR 845 E-846 B

6.

Topic: Section 298 validity, Jalan distinction and dismissal with costs

Source url: [Open cited source](#)

Pdf pages: 14; 15

Paragraphs: SCR 846 C-847 closing order

7.

Topic: Sankappa applies Kalawati to saved rectification proceedings

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 678 B-679 G

Source role: later judicial treatment

8.

Topic: Baliah expressly confines General Clauses Act exclusion and preserves separate penalty objection

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Paragraphs: SCR 71-74

Source role: later judicial qualification

9.

Topic: J.K. Commercial confirms contextual assessment meaning

Source url: [Open cited source](#)

Pdf pages: 4; 6; 7

Paragraphs: SCR 515 A-B; 517-518

Source role: later judicial treatment

10.

Topic: Later compilation of sections 297 and 298 and amendment footnotes

Source url: [Open cited source](#)

Pdf pages: 1004; 1005; 1006

Paragraphs: Printed 1.963-1.965

Source role: historical statutory context

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

The actual revision power is old-Act section 33B, sustained after repeal through the Court's interpretation of section 297(2)(a) and the validity of section 298 with clause 4 of the 1962 Order. Section 263 is not the governing provision decided. The Court does not treat all proceedings as governed identically by every clause of section 297.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.M. Sikri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, sections 297(2)(a) and 298: preservation of revision under the Indian Income-tax Act, 1922

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: 1969_3_65_74

Title: T.S. Baliah v. T.S. Rengachari

Decision date: 1968-12-12

Classification: Express explanation limiting broad exclusion of General Clauses Act section 6

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Pinpoint: SCR 71-74

Holding limit: Section 6 displaced only for subjects showing clear contrary intention; old-Act prosecution saved, with separate section 28(4) objection left open.

Bounded check: verified only within explicit read bounds

2.

Asset id: 1968_2_674_684

Title: S. Sankappa and Others v. Income-tax Officer

Decision date: 1967-12-14

Classification: Express application to rectification

Source url: [Open cited source](#)

Pdf pages: 5; 6

Pinpoint: SCR 678-679

Holding limit: Uses comprehensive assessment meaning for section 297(2)(a); does not make every proceeding or Act interchangeable.

Bounded check: verified only within explicit read bounds

3.

Asset id: 1977_1_512_518

Title: Commissioner of Income Tax v. J.K. Commercial Corporation Ltd.

Decision date: 1976-09-03

Classification: Express reliance on contextual assessment meaning

Source url: [Open cited source](#)

Pdf pages: 4; 6; 7

Pinpoint: SCR 515, 517-518

Holding limit: Later 1922 Act rectification case; 1961 comparison expressly incidental.

Bounded check: verified only within explicit read bounds

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, section 33B (revision of an erroneous order prejudicial to revenue); Income-tax (Removal of Difficulties) Order, 1962, clause 4; clauses 2-3 (quoted context); General Clauses Act, 1897, section 6; Constitution of India, Articles 226 and 133; Finance Act, 1950, sections 12 and 13; Taxation Laws (Extension to Merged States and Amendment) Act, 1949, section 7 (precedent context); Payment of Bonus Act, 1965, section 37 (Jalan Trading comparison)

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 15 PDF pages; SHA-256 4185b430b1942dc5a0faf8bcf977f1a3f69008cab34a49efdaf6b09ad25b98d5. Original bytes preserved.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; later treatment comprehensive: not_verified; current law status: not_verified; statutory mapping 2025: not_verified

Decision date and SCR report identity verified from the heading. Catalogue identifier 1967INSC132 is not independently printed or authenticated in this rendition.

The nine assessments were dated 7 February 1961, and the revision notice 24 January 1963. Individual return dates are not stated; the saving criterion must not be replaced with assessment-year shorthand.; The Commissioner's notice allegations about business, capital, jewellery and gifts are not Supreme Court findings; this was a jurisdictional challenge to a proposed revision.; The High Court's alternative or tentative General Clauses Act observations must not be mistaken for the Supreme Court's own reasoning.; The broad section 6 wording is expressly qualified in later Baliah: contrary intention must be established for the particular subject; prosecutions were not exhaustively dealt with by section 297.; An intervener is mentioned, but no separate appeal or disposition is recorded. No separate opinion is present.; The report's section 298(1) quotation at physical 6/SCR 838 uses expeditious; the retained 2011 statutory compilation uses expedient. The original Gazette version is not authenticated here and no outcome turns on that wording difference.; The section 297(2)(e) quotation at physical 5/SCR 837 omits the qualifier subject to clauses (g) and (j) found in the later compilation at physical 1005; its footnote attributes that insertion to the Finance Act, 1963, retrospectively from 1 April 1962. The judicial quotation is not treated as an exhaustive authenticated statutory version.; The 1962 Removal of Difficulties Order is checked as quoted and adjudicated in this judgment, not against a separately acquired Gazette original.; The 2011 compilation has later amendments and additions. It is not a substitute for the historical 1967 version, complete present law or 2025 mapping.

Nine assessments, 1952-53 through 1960-61, made on 7 February 1961. The judgment gives no individual return dates; its operative section 297(2)(a) reasoning concerns the old assessments completed before the new Act's 1 April 1962 commencement.

Certificate appeal under Article 133 from the Calcutta High Court judgment and order dated 8 December 1964 in Appeal from Original Order 281 of 1963. An intervener is recorded in the counsel recital but no separate appeal or separate disposition is identified.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk. Complete amendments, commencement, savings and case-specific present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Bounded primary later-treatment checks: Sankappa (full eleven-page text/images) applies Kalawati; Baliah (full ten-page text, five listed images) expressly confines its General Clauses Act language; J.K. Commercial (full seven-page text/images) relies on the contextual meaning of assessment. Baliah's citation to Damodar Bhat is reported as such; no fresh independent full read of Damodar Bhat is claimed for this batch. Comprehensive later treatment and current law remain not_verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 15](#)

SHA-256: 4185b430b1942dc5a0faf8bcf977f1a3f69008cab34a49efdaf6b09ad25b98d5

[later reported judgment bounded - PDF pages: 11](#)

SHA-256: 7275b789c87fe12e0d62fb743b29379f5f86d578a2c6f1e46c28e6278cda0db6

[later reported judgment bounded - PDF pages: 10](#)

SHA-256: 70366912dd7fbcab32d1a84ffac5785cf7fc9d53e081215c36d1bbe7f05f7850

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