

Bhanji Bagawandas v. Commissioner of Income-tax, Madras

Civil Appeal No. 1984 of 1966

[1968] 1 SCR 17 | 1967-07-18

Historical section 34 reassessment limitation: an incidental conclusion that a cash credit belonged to another year was not the finding needed to invoke the second proviso, but the 1959 validating amendment was an aspect of the referred limitation question and required High Court consideration.

Indian Income-tax Act, 1922: sections 34(1)(a), 34(3) second proviso and 66(1) | Income-tax (Amendment) Act, 1959: sections 2 and 4

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

Assessment years: 1948-49, 1949-50

No final limitation answer

The Court rejected Revenue's reliance on the second proviso to section 34(3), but did not finally hold the notice time-barred because the separate 1959 validating amendment still had to be examined on remand.

Finding had a confined meaning

Deleting the credit from assessment year 1949-50 required a finding only that it did not belong to that year. Any observation that it belonged to 1948-49 was incidental and did not remove the other year's limitation bar through the second proviso.

New argument was an aspect of the referred issue

Although the 1959 amendment had not been argued before the Tribunal or High Court, it could be considered because limitation itself was already the referred question. The Court did not authorize introduction of an entirely new question.

Cash-credit merits were not decided

The judgment addressed the year and procedural validity of reassessment. It did not finally establish that the Rs.25,000 was the assessee's undisclosed income.

Historical amendments control

The report discusses the 1948 and 1956 versions of section 34 and the retrospective 1959 legislation. The applicable text and effective dates must not be replaced with a modern reopening framework.

01 FACTS OF THE CASE

A Rs.25,000 credit entered Bhanji Bagawandas's capital account on 13 November 1947 and was transferred to his father-in-law's account on 30 October 1948. The officer first assessed it as undisclosed income for 1949-50, but the Appellate Assistant Commissioner deleted it because the credit predated 31 March 1948 and fell in the previous year for 1948-49. On 3 November 1958, the officer issued a section 34(1)(a) notice for 1948-49 and reassessed the amount. The first appellate authority held the notice time-barred because the earlier order contained no necessary finding that the amount was income taxable in 1948-49. The Tribunal reversed, and the Madras High Court relied on its broad reading of finding in A. S. Khader Ismail to answer the section 66(1) questions for Revenue (SCR pp.18-20; PDF pp.2-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court's intervening Murlidhar Bhagwan Das decision had overruled the High Court's approach. A finding for the second proviso to section 34(3) had to be necessary to dispose of the appeal for the year before the authority; a conclusion that the income belonged to some other year was merely incidental and could not lift that other year's time limit (SCR p.20; PDF p.4). Revenue nevertheless invoked the retrospective 1959 amendment. Although this ground had not been presented below, it was not a separate question: it was another legal aspect of the referred limitation issue. Section 66(1) required the question to have been in issue before the Tribunal, not every argument or standpoint later used to resolve that question (SCR pp.20-22; PDF pp.4-6). The amendment's effect therefore had to be considered by the High Court on remand.

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Supreme Court allowed the assessee's appeal, set aside the Madras High Court judgment and remanded the reference for further hearing in light of the Income-tax (Amendment) Act, 1959. It directed Revenue to pay the costs of the Supreme Court appeal (SCR p.22; PDF p.6).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

The assessee succeeded in overturning the High Court's second-proviso reasoning, but final resolution of the 1948-49 reassessment limitation was left open for the High Court's examination of the 1959 amendment (SCR pp.20-22; PDF pp.4-6).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: separate three questions in a reassessment chronology - what the earlier appellate order necessarily found, which assessment year that finding legally concerned, and whether an independent validating provision governs the later notice. In a reference, distinguish a new aspect of an existing legal question from a new question altogether, and label a remand as unresolved rather than as a final cancellation of reassessment (based on SCR pp.20-22; PDF pp.4-6).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 6-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 6-page count match catalogue asset 1968_1_17_22; every page was reviewed.

The source verifies Civil Appeal No. 1984 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 concerns reassessment limitation and reference procedure under the repealed Indian Income-tax Act, 1922 together with the retrospective Income-tax (Amendment) Act, 1959. It does not state modern reopening, limitation, cash-credit or appellate-reference law. 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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