

Commissioner of Income-tax, West Bengal, Calcutta v. Smt. Anusuya Devi

Civil Appeal No. 2457 of 1966

[1968] 2 SCR 466 | 1967-11-28

Limits of a High Court's section 66 tax-reference jurisdiction: a new factual explanation first introduced in the application to state a case could not support a question not arising from the Tribunal's order.

Indian Income-tax Act, 1922: sections 66(1), 66(2) and 66(4) | High Denomination Bank Notes (Demonetisation) Ordinance, 1946: section 6

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

Assessment years: 1945-46

Reference jurisdiction, not a fresh fact appeal

The decisive point was that the 494-note bank-withdrawal story had not been placed before the Income-tax Officer, Appellate Assistant Commissioner or Tribunal and therefore did not arise from the Tribunal's order.

Natural-justice plea was not preserved

The alleged lack of opportunity to explain discrepancies had not been raised before the Tribunal and could not be used for the first time to attack its factual conclusion in the reference.

Reframing power is limited

A referred question may be clarified or focused, but reframing and a supplementary statement cannot reopen a concluded factual inquiry or introduce evidence absent from the departmental and Tribunal record.

Underlying tax merits not newly retried

The Supreme Court's result restored the procedural position and refused to manufacture a reference. It did not accept the later bank-withdrawal narrative as established fact.

Missing departmental record

The Court separately recorded a disturbing failure: the entire assessment and first-appellate record was missing and untraced, and described the custodial lapse as gross negligence even if collusion were excluded.

01 FACTS OF THE CASE

After Amritlal Ojha died on 18 October 1944, his estate was assessed for 1945-46. In January 1946 his widow Anusuya Devi encashed 584 high-denomination notes worth Rs.5,84,000. The explanation before the Income-tax Officer was that her husband had made gifts over many years and that the cash was found after his death. The officer treated the amount as the deceased's undisclosed income for accounting year 1944-45; the first appeal and Tribunal failed. Only in her section 66(1) application did Anusuya Devi assert that 494 notes came from a September 1945 bank withdrawal by her eldest son. The High Court compelled a reference asking whether the Tribunal had ignored that bank-withdrawal evidence and answered for the assessee (SCR pp.468-471; PDF pp.3-6).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The bank-withdrawal assertion was not before any fact-finding authority and did not appear even in Anusuya Devi's Tribunal affidavit. The Tribunal could not be faulted for ignoring evidence it had never received. A High Court may require a section 66(2) reference only on a legal question that was put to the Tribunal and arose from its order. Even after directing a reference, it remains free - and obliged - to test whether the question is legal, material, non-academic and actually arises from that order. Reframing can remove obscurity or identify the real issue, but cannot reopen a closed factual inquiry; a section 66(4) supplementary statement is confined to material already on record relevant to a question arising from the Tribunal's order. The unpreserved natural-justice complaint likewise could not invalidate the Tribunal's conclusion (SCR pp.471-474; PDF pp.6-9). The requested alternative question about whether all Rs.5,84,000 belonged to accounting year 1944-45 was not argued before the Tribunal; any High Court refusal to require it had become final without an assessee appeal (SCR pp.473-475; PDF pp.8-10).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Supreme Court allowed Revenue's appeal, set aside the High Court's order and answered the referred question in the negative. Because of the missing departmental records and the Court's concern about their custody, it made no order as to costs in either court (SCR p.475; PDF p.10).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Commissioner of Income-tax on the procedural reference issue. The later factual explanation could not be used to impeach the Tribunal through section 66, and the High Court's affirmative answer was reversed (SCR pp.471-475; PDF pp.6-10).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: a tax reference must be built from the Tribunal record. Put each material fact, evidentiary objection and natural-justice complaint before the Tribunal, and frame the legal question in the section 66 application; later reframing cannot cure an omitted factual case. Preserve the assessment and appellate record with a reliable index and custody trail because a missing record can compromise both merits review and institutional credibility (based on SCR pp.471-475; PDF pp.6-10).

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 1968_2_466_475; every page was reviewed.

The source verifies Civil Appeal No. 2457 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 addresses the advisory reference jurisdiction under section 66 of the repealed Indian Income-tax Act, 1922 and evidence arising from the 1946 demonetisation ordinance. It does not state the modern appellate or cash-credit procedure. 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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