

J. P. Jani, Income-tax Officer & Anr. v. Induprasad Devshankar Bhatt

Civil Appeal No. 972 of 1967

[1969] 1 SCR 714 | 1968-08-20

Did section 297(2)(d)(ii) authorise a fresh section 148 notice where the right to reopen was admittedly already barred under the 1922 Act when the 1961 Act commenced?

142(1) | 147(a) | 148 | 149 | 297(2)(d)(ii)

Three judges | J.C. Shah, J. | V. Ramaswami, J. | A.N. Grover, J.

Assessment years: 1947-48

No implied revival of an already barred power

Jani rests on an admitted old-Act time bar and the absence of express or necessarily implied revival in section 297(2)(d)(ii). It does not prohibit revival by clearly retrospective legislation, decide invalid-proceeding pendency, or adjudicate a section 150 exception. Later Biswanath illustrates the different result possible under clear statutory wording. The report's initial-notice chronology and Gadgil recital anomalies are disclosed; historical periods are not current law. Original judgment PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

The assessee was assessed for AY 1947-48 on 31 January 1952. The officer later received information alleging that profits earned in the name of Natwarlal Manilal Pandit, said to be the assessee's benamidar, had escaped assessment through non-disclosure. After Commissioner approval, a notice under section 34(1)(a) of the 1922 Act dated 27 March 1956 was affixed to the assessee's house when personal service could not be effected. The assessee objected to service and ultimately filed a return under protest on 16 January 1957, repeating the originally assessed income. The officer nevertheless reassessed total income at Rs. 89,000 on 29 March 1957. The Supreme Court did not independently determine the alleged benami profit or quantify escaped income (physical pages 2-3/SCR 715 E-716 A).

The Appellate Assistant Commissioner set the reassessment aside on 5 January 1963 for want of valid service. By then the 1922 Act had been repealed and the 1961 Act had commenced on 1 April 1962. The report separately dates an initial section 147(a) show-cause notice 4 January 1963, one day before the appellate order; that printed chronology is retained, not silently reversed. A section 148 notice followed on 13 November 1963, and a section 142(1) notice on 9 January 1964. The assessee challenged the latter two notices in the Gujarat High Court, which quashed them because the old-Act reopening right was admittedly barred when the new Act commenced. The Revenue appealed by certificate (physical pages 2-3/SCR 715 B-D, 716 A-G).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court set out the relevant historical regimes. Before the Finance Act 1956 amendment, section 34(1)(a) ordinarily carried an eight-year period. The amended old-Act proviso retained an eight-year restriction unless the specified aggregate escaped-income threshold of one lakh rupees was met. The 1961 Act divided the reassessment machinery among sections 147-153 and, in the quoted section 149(a)(ii), permitted the eight-to-sixteen-year route where escaped income amounted or was likely to amount to Rs. 50,000 or more for that year. These are historical thresholds, not a present limitation schedule (physical pages 3-7/SCR 716 H-720 C).

Section 297(2)(d)(i) saved proceedings pursuant to an old-Act notice issued before commencement. Clause (ii) addressed escaped income where no section 34 proceeding was pending at commencement and permitted a new section 148 notice subject to sections 149 or 150. The Revenue argued that the opening reference to assessment years after the year ending 31 March 1940 brought every such year within the new regime, even when the old reopening power had expired (physical pages 6-7/SCR 719 A-C, 720 D-F).

The Court rejected that construction. The decisive premise was expressly admitted: the right to reopen AY 1947-48 was barred under the old Act before the new Act came into force. General words in section 297(2)(d)(ii) did not expressly, or by necessary implication, revive that lost power. Giving them that effect would impermissibly attribute retrospective operation affecting accrued rights or reviving a remedy lost by time. The clause applied only where the old reopening right was not already barred (physical pages 7-8/SCR 720 G-721 D).

S. S. Gadgil v. Lal & Co. supported the result: a later extension of the time for assessment of an agent of a non-resident did not, absent the requisite legislative intention, authorise proceedings already barred under the earlier provision. Jani applied that principle to the repeal-and-savings clause. It did not hold that Parliament can never revive a barred power, decide whether an invalid old proceeding counts as pending at commencement, or determine a separate section 150 finding-or-direction exception. Those questions must not be merged with the admitted time-bar issue actually resolved (physical pages 8-10/SCR 721 D-723 A).

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

03 JUDICIAL DECISION

The Revenue's appeal was dismissed with costs. The Gujarat High Court's judgment was affirmed; the section 148 notice dated 13 November 1963 and section 142(1) notice dated 9 January 1964 were held illegal and ultra vires and remained quashed. No remand or merits reassessment of the alleged profit was ordered (physical pages 9-10/SCR 722 G-723 B).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue appeal dismissed with costs; High Court quashing of the two specified notices affirmed

Reasoned jurisdictional interpretation of the 1961 Act repeal-and-savings provision

Non-revival of an admittedly barred old-Act reopening power; no independent adjudication of the alleged escaped income, invalid-proceeding pendency, or section 150 exception.

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

05 AKHB REVIEW POINT

For transition questions, identify three separate matters: the old power's expiry, the provision saving or permitting proceedings, and the new provision's temporal reach. A longer period in a new enactment does not by itself answer whether an already lost power revives. Here the old bar was admitted; the Court did not compute a contested expiry date or decide the pending-proceeding status of the invalidly served notice.

The bounded later checks preserve the qualification within the principle. Onkarmal Meghraj expressly recalled Jani when addressing the limited retrospectivity of the 1953 amendment to old section 34; it was an application in another historical setting, not a fresh 1961 notice ruling (physical pages 7-8/SCR 397 G-398 E). Biswanath Jhunjhunwala later explained Jani but upheld revival under differently worded Bengal sales-tax provisions whose retrospective effect was clear. That result shows why Jani cannot be made an absolute prohibition on legislative revival. Biswanath did not overrule Jani or alter section 297; its statutory setting and operative drafting must be kept distinct (physical pages 7-9/SCR 292 B-D, 293 F-294 D).

The retained government-hosted 2011 compilation reproduces section 297(2)(d)(i)-(ii), while recording replacement of section 147 from 1 April 1989 and later changes to section 149. These limited historical checks warn against treating the judgment's eight/sixteen-year scheme as current law. Comprehensive subsequent treatment, the complete amendment and savings chain, present applicability and any Income-tax Act, 2025 mapping remain not verified.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 972 of 1967

Outcome: Dismissed with costs

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, original assessment, defective service and procedural chronology

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: SCR 714 heading; 715 B-716 G

2.

Topic: Old and new statutory routes and thresholds

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6; 7

Paragraphs: SCR 717 A-720 C

3.

Topic: Admitted time bar and no implied revival

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 720 D-721 D

4.

Topic: Gadgil reasoning and source chronology anomalies

Source url: [Open cited source](#)

Pdf pages: 8; 9

Paragraphs: SCR 721 D-722 F

5.

Topic: Holding, two notices quashed and costs

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: SCR 722 G-723 B

6.

Topic: Later direct Jani use in old-Act amendment setting

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 397 G-398 E

Source role: later judicial application

7.

Topic: Jani explained and clearer retrospective legislation given effect

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: SCR 292 B-D; 293 F-294 D

Source role: later judicial qualification

8.

Topic: Historical section 297 transition text

Source url: [Open cited source](#)

Pdf pages: 1004; 1005

Paragraphs: Printed 1.963-1.964, section 297(2)(d)(i)-(ii)

Source role: historical statutory check

9.

Topic: Later replacement of section 147 and changes to section 149

Source url: [Open cited source](#)

Pdf pages: 720; 722; 723

Paragraphs: Printed 1.679,1.681-1.682; footnotes 71,74,88,90

Source role: historical statutory change

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

139(2), 150, 151-153 and 297(2)(d)(i), historical scheme quoted or explained; no distinct adjudication under section 150

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

V. Ramaswami, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, sections 148 and 297(2)(d)(ii), read with historical reopening provisions; Indian Income-tax Act, 1922, section 34

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: 1974_1_391_398

Title: Commissioner of Income Tax, Bombay v. Onkarmal Meghraj (H.U.F.) & Ors.

Decision date: 1973-08-16

Classification: Express later use in historical 1922 Act limitation dispute

Source url: [Open cited source](#)

Pdf pages: 7; 8

Pinpoint: SCR 397 G-398 E

Holding limit: Jani supports limited retrospectivity; the distinct old-Act appeal groups and findings/directions proviso remain separate.

Bounded check: verified only within explicit read bounds

2.

Asset id: S 1996 5 286 294

Title: Commercial Tax Officer & Ors. v. Biswanath Jhunjhunwala & Anr.

Decision date: 1996-08-20

Classification: Statutory distinction and adverse qualification to an absolute non-revival reading; not overruling

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Pinpoint: SCR 292 B-D; 293 F-294 D

Holding limit: Clear retrospective sales-tax rule wording permitted reopening notwithstanding earlier finality. Different enactment; not a change to section 297.

Bounded check: verified only within explicit read bounds

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, section 34(1)(a), relevant pre/post-Finance Act 1956 provisions; Finance Act, 1956, historical amendments to section 34

SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256
4e1f195b3949c93cbc97702dbc089a4490ad4a449f659341e215bfd2445d47d8. 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, report citation, judges and author verified from source images. 1969 is the report year. Catalogue INSC identifier is not independently authenticated in this rendition.

The decision is dated 20 August 1968 although reported in 1969.; The report dates the initial show-cause notice 4 January 1963 and the AAC order 5 January 1963; the note preserves that sequence without inventing a correction.; Rs. 89,000 is total reassessed income, not a judicially quantified escaped-income amount. The historical section 149 quotation uses Rs. 50,000 or more, although the introductory narrative says exceeding Rs. 50,000.; In its Gadgil recital, SCR 721 says new Act before its amendment in 1956 and dates the amendment 8 September 1958. Those source anomalies are not adopted as legislative chronology; the note relies on the stated non-revival principle and limits, not those dates.; The old reopening bar is admitted. No separate ratio about invalid proceedings being pending on 1 April 1962, or availability of a section 150 exception, is supplied.; Biswanath's headnote prints 1991 where the judicial text uses 1971; SCR 294 prints Rule 18(5)(ii) where the preceding text uses Rule 80(5)(ii), and says respondents may proceed although the appeal was by the Revenue. These anomalies are not imported into the stated qualification.; Historical threshold, sanction and limitation language must not be treated as unchanged current law.

The original assessment and first reassessment were under the 1922 Act; the challenged 1963-64 notices were under the 1961 Act. The old assessment year does not displace the express 1961 transition holding.

Certificate appeal from Gujarat High Court judgment dated 14/15 December 1964 in Special Civil Application No. 54 of 1964.

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. not_verified. Bounded retained primary checks establish express later use in Onkarmal Meghraj and the clear-retrospective-wording qualification in Biswanath Jhunhunwala. This is not an exhaustive citator, review, stay or reversal search.

IDENTIFIED SOURCE LINKS

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

SHA-256: 4e1f195b3949c93cbc97702dbc089a4490ad4a449f659341e215bfd2445d47d8

[later reported judgment bounded - PDF pages: 8](#)

SHA-256: 8c0a17a9046b2009b82964030e9db249e0deb6ae42bdd62f41e0969c2607ee42

[later reported judgment bounded - PDF pages: 9](#)

SHA-256: 7e8a1d472b471655b3267b05c4642fda08ce4a6b42417bed74e99d352885ba75

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