

Mansukhlal & Brothers, Bombay v. Commissioner of Income-tax, Bombay

Civil Appeal No. 864 of 1966

[1969] 1 SCR 970 | 1968-09-03

Historical section 28(1)(c) concealment-penalty ceiling: 'income as returned' meant the income actually disclosed in the section 22 return, and tax 'avoided' meant tax that would have escaped assessment, not only tax attributable to the proved concealed item.

Indian Income-tax Act, 1922: sections 22 and 28(1)(c)

2-judge bench; unanimous judgment delivered by A. N. Grover, J. | V. Ramaswami, J. | A. N. Grover, J.

Assessment years: 1948-49

Historical maximum-penalty formula

The holding concerns the ceiling then expressed as one and a half times the tax that would have been avoided if income as returned had been accepted; it is not a current statutory calculation.

Concealment trigger remained necessary

The Tribunal found concealment only for Rs.24,000. The judgment held that once section 28(1)(c) was attracted, the ceiling was computed from final assessed income versus returned income; it did not deem every addition concealed.

Disproportionality not resolved as discretion

The Court acknowledged the argument that Rs.62,000 was disproportionate to the proved concealed amount but held that the referred question did not permit examining the quantum exercise.

Context limits earlier observations

The Court declined to extract broad proportionality rules from Abraham and N. A. Malbary outside their factual and statutory contexts.

01 FACTS OF THE CASE

For assessment year 1948-49 the assessee firm returned Rs.45,904. The Income-tax Officer corrected disallowances to Rs.48,135 and added Rs.90,000 and Rs.24,000 from undisclosed sources, producing assessed income of Rs.1,62,135. The appellate authority found concealment only for Rs.24,000 and reduced the Rs.62,000 penalty to Rs.20,000, but the Tribunal restored Rs.62,000. The assessee argued that the section 28(1)(c) ceiling should compare tax on Rs.1,62,135 with tax on Rs.1,38,135, treating only the concealed Rs.24,000 as outside 'income as returned.' The Bombay High Court rejected that construction (SCR pp.971-973; PDF pp.2-4).

Source: [Primary judgment: facts](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated section 28 as a deterrent penalty provision and refused to read the statutory ceiling as necessarily proportionate to the concealed amount. Earlier statements describing penalty as additional tax or correlating it with evaded tax could not be divorced from the issues in those cases (SCR pp.974-976; PDF pp.5-7). In section 28(1)(c), 'avoided' meant escaped assessment, not the narrower concept of evasion, and 'income as returned' meant the income disclosed in the section 22 return. Once concealment was proved, the maximum was one and a half times the difference between tax on finally assessed income and tax on the income actually returned, irrespective of the concealed item's amount. The Court noted that the penalty quantum's apparent disproportionality was outside the referred question (SCR pp.977-978; PDF pp.8-9).

Source: [Primary judgment: discussion](#)

03 JUDICIAL DECISION

The Court affirmed the High Court's answer that the historical section 28(1)(c) ceiling used finally assessed income and the income actually shown in the return, not assessed income minus the concealed item. The appeal was dismissed, with each party bearing its own costs (SCR p.978; PDF p.9).

Source: [Primary judgment: decision](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Commissioner of Income-tax/respondent on the statutory computation question. The Rs.62,000 penalty was not disturbed in this reference appeal, but there was no costs award (SCR p.978; PDF p.9).

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: penalty analysis must start with the exact statutory version and separate three questions: the conduct that triggers penalty, the base used to calculate its ceiling, and the authority's discretion within that ceiling. Do not treat an ordinary assessment addition as concealed income merely because the historical ceiling once referenced total assessed-versus-returned tax (based on SCR pp.973-978; PDF pp.4-9).

Source: [Primary judgment: reviewPoint](#)

SOURCE & VERIFICATION

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

Full 9-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 9-page count match catalogue asset 1969_1_970_978; every page was reviewed.

The source verifies Civil Appeal No. 864 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 construes the pre-amendment penalty formula in section 28(1)(c) of the repealed Indian Income-tax Act, 1922 for assessment year 1948-49. Its maximum-penalty wording differs from later penalty regimes, and the report does not establish any current penalty computation. 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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