

Modi Spinning & Weaving Mills Co. Ltd. v. Income-tax Officer, Special Investigation Circle (B), Meerut

Civil Appeal No. 890 of 1968 / Civil Appeal No. 891 of 1968 / Civil Appeal No. 892 of 1968
[1969] 3 SCR 592 | 1969-02-10

Could the section 148 notices be sustained merely because excessive depreciation had caused escapement, without separately considering whether that escapement was by reason of the company's failure to disclose fully and truly the material assessment facts?

147(a) (historical reopening setting; source also prints 147(1)(a)) | 147, Explanation 1(c) (historical excessive-relief recital) | 148

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

Assessment years: 1956-57, 1957-58, 1958-59

Historical reopening, section 34/148 source presentation and limited remand

The actual notices were issued under section 148 of the 1961 Act, but the Court quotes and explains section 34(1)(a) of the 1922 Act; physical 4 also prints section 147(1)(a). This source presentation is not silently corrected. All three appeals resulted in a remand on disclosure and causation, not a final quashing of notices. Costs were left as costs in the High Court, with one hearing fee. Later authorities are bounded comparisons only. Reopening law changed; the 2011 compilation is historical. Comprehensive later treatment, remand outcome, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

The company, incorporated in 1946, installed machinery worth Rs. 75 lakhs. For assessment years 1950-51 to 1952-53 it received initial depreciation aggregating Rs. 15,91,511, as well as normal depreciation. By assessment year 1956-57 aggregate depreciation including the initial allowance exceeded the original machinery cost. Nevertheless, on a written-down value of Rs. 16,48,053 the Income-tax Officer allowed normal depreciation of Rs. 2,59,236, apparently overlooking the aggregate-cost ceiling in proviso (c) to section 10(2)(vi) of the 1922 Act. Normal depreciation was also allowed in 1957-58 and 1958-59 (physical 2/SCR 593 C-F).

On 20 November 1964 the officer issued reassessment notices for those three years under section 148 of the 1961 Act. The company filed fresh returns under protest and sought Article 226 writs. It conceded that excessive depreciation had been allowed; escapement through excessive relief was common ground under the historical section 147 Explanation 1(c). It disputed the necessary causal failure of disclosure: the return form did not require separate disclosure of earlier initial depreciation, and the officer already knew of the allowances made in 1950-51 to 1952-53 (physical 2-3/SCR 593 F-594 B).

R.S. Pathak J. accepted that initial depreciation need not be deducted in entering written-down value, but held that the company still had to disclose facts showing its true entitlement, rather than only those supporting an exaggerated allowance. The Division Bench dismissed the Letters Patent appeals, treating mistakes on both sides and the officer's reasonable prima facie view as sufficient. The three special-leave appeals challenged that approach (physical 3-4/SCR 594 C-595 G).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first distinguished two depreciation calculations under the old Act. Initial depreciation was expressly excluded when determining written-down value for normal depreciation, but remained relevant to the ceiling limiting aggregate allowances to original cost. The exclusion from written-down value therefore did not abolish proviso (c). The officer's failure to include initial depreciation when checking that ceiling explained the excessive allowance; it did not itself establish a qualifying default by the company (physical 3-4/SCR 594 E-595 A).

The judgment then reproduced section 34(1)(a) of the 1922 Act and, citing Calcutta Discount, stated two cumulative conditions precedent to reopening beyond four years but within eight: reason to believe that income had escaped or been under-assessed, and reason to believe that this occurred because the assessee failed to make the required return or to disclose fully and truly the necessary material facts. A conclusion about escapement alone did not answer the second inquiry (physical 4-5/SCR 595 G-596 E).

This statutory presentation must be read accurately. The same judicial body identifies the challenged notices as section 148 notices under the 1961 Act and the common-ground escapement provision as historical section 147, but expresses its operative two-condition analysis through old section 34. Physical 4 also prints section 147(1)(a) while recounting the single judge's view. The note preserves those features and does not substitute an unexpressed section 297 decision or silently relabel the quoted law.

Applying the cumulative test, the Supreme Court held that the High Court had considered the officer's conclusion that income escaped assessment but had not considered whether the escapement was caused by the company's omission or failure of full and true disclosure. It therefore remanded that specific question for determination for all three years. The Court did not itself find a disclosure failure, conclusively exonerate the company, or finally quash the notices (physical 5/SCR 596 E-G).

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

03 JUDICIAL DECISION

The Supreme Court allowed the three company appeals, set aside the High Court judgment and remanded for determination whether omission or failure by the company to disclose fully and truly all material facts caused escapement or excessive depreciation for the three years. Costs of the Supreme Court appeals were to be costs in the High Court, with one hearing fee. The notices were not finally quashed in this judgment (physical 5/SCR 596 F-H).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Company on the jurisdictional approach and entitlement to reconsideration; final validity of reopening left for the High Court

All three appeals allowed; High Court judgment set aside and case remanded on the disclosure/causation question

Reasoned procedural-jurisdiction holding; admitted excess depreciation did not by itself resolve reopening validity

No final finding of non-disclosure or final annulment of notices; no separate opinion; later High Court result not verified.

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

05 AKHB REVIEW POINT

Separate the computation error from the jurisdictional fact asserted to justify reopening. An admitted excessive allowance answers escapement; it does not automatically establish that the taxpayer's failure of disclosure caused it. For this case the decisive relief was a reasoned remand, so it should not be cited as a final finding that the company either withheld or fully disclosed every material fact.

The bounded later comparison is Parashuram Pottery (16 November 1976), which expressly relates historical section 147(a) to old section 34(1)(a). On its own depreciation record the Court held that accurate return particulars and the officer's reliance on departmental records did not support attributing his computational mistake to the assessee, and it quashed the notices. That later case illustrates the distinction Modi left for factual determination, but does not directly cite Modi and is not proof of the result on Modi's remand (physical 7-10/SCR 98-101). Parashuram's printed accounting-year date is internally inconsistent and is not relied on here.

Rajesh Jhaveri (23 May 2007) separately distinguishes the pre-1989 two-clause section 147 from the substituted provision. For the historical main-provision case before it, following section 143(1) processing rather than scrutiny assessment, the first condition sufficed; the Court expressly preserved both conditions for a case within the then proviso. It allowed the Revenue's appeal without costs. This is a version-specific comparison, not direct treatment of Modi or a present reopening checklist (physical 12-14/SCR 776-778, paragraphs 15-20).

The retained government-hosted 2011 compilation records substitution of sections 147 and 148 effective 1 April 1989. That selected historical text and its editorial footnotes support a warning against transplanting the 1964 framework unchanged, not a current-law certificate. Comprehensive later treatment, subsequent statutory changes, current applicability and the Income-tax Act, 2025 crosswalk remain unverified (compilation physical 720-721).

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 890 of 1968

Outcome: Allowed with the common remand; costs to be costs in the High Court, one hearing fee for the appeals

2.

Case number: Civil Appeal No. 891 of 1968

Outcome: Allowed with the common remand; costs to be costs in the High Court, one hearing fee for the appeals

3.

Case number: Civil Appeal No. 892 of 1968

Outcome: Allowed with the common remand; costs to be costs in the High Court, one hearing fee for the appeals

Costs: Costs of these appeals will be costs in the High Court; one hearing fee

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, three appeals, depreciation and actual 1961 notices

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: SCR 592 heading; 593 A-594 B

2.

Topic: Old depreciation distinction and High Court reasoning

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 594 C-595 G

3.

Topic: Quoted old section 34 and cumulative jurisdictional conditions

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 595 G-596 E

4.

Topic: Remand, no final notice quashing, costs and one hearing fee

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 596 E-H

5.

Topic: Later comparison: historical reopening conditions and officer error

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Paragraphs: SCR 98 E-101 H

Source role: later judicial comparison

6.

Topic: Later comparison: version distinction and proviso qualification

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14

Paragraphs: SCR 776-778, paragraphs 15-20

Source role: later judicial comparison

7.

Topic: Historical 1989 substitutions, not current law

Source url: [Open cited source](#)

Pdf pages: 720; 721

Paragraphs: Printed 1.679-1.680; footnotes 71 and 79

Source role: historical statutory change

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Operative challenge to 1961 Act notices concerning old-Act assessments. The Court quotes and explains section 34(1)(a) of the 1922 Act before applying the cumulative jurisdictional inquiry to those notices. It does not discuss section 297 or adjudicate a transition conflict.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

J.C. Shah, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, sections 147 and 148; underlying depreciation under the Indian Income-tax Act, 1922

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: 1977_2_92_101

Classification: Later judicial comparison, no direct citation

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Holding limit: Independent depreciation/disclosure facts; does not decide Modi remand.

Bounded check: verified only within explicit read bounds

2.

Asset id: 2007_7_765_778

Classification: Later judicial/statutory comparison, no direct citation

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14

Holding limit: Historical pre/post-1989 distinction; proviso qualification retained.

Bounded check: verified only within explicit read bounds

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, sections 10(2)(vi), proviso (c), 10(5)(b) and 34(1)(a); Constitution of India, Article 226

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256

89f0dc40c8ba8474f7cf7f9bc618cd58837e3bd8a907808d9a1e9f779a11bad3. 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 verified on first-page image; 1969 is the report year. Catalogue INSC identifier is not independently printed or authenticated in this rendition.

The frozen catalogue names only Appeal 890; source includes Appeals 890-892 of 1968.; The judgment expressly identifies 1961 section 148 notices but quotes and reasons through 1922 section 34(1)(a). This is disclosed rather than normalized; section 297 is not discussed.; Physical 4/SCR 595 D prints section 147(1)(a); historical section 147(a) is the independently compared provision, not a correction to original bytes.; Escapement was conceded; the disclosure/causation issue was remanded. No final notice quashing or disclosure finding is stated.; The two later sources are comparisons only, not direct citation treatment or evidence of the High Court remand outcome.; The 2011 compilation is historical; original Gazette amendments, comprehensive later treatment, current law and 2025 mapping are not verified.

Original assessments and depreciation related to the 1922 Act. The challenged notices are expressly dated 20 November 1964 and issued under section 148 of the 1961 Act. Decision year does not determine statutory scope.

Three special-leave appeals from the Allahabad High Court judgment dated 24 November 1967 in Special Appeals 476-478 of 1965. Frozen catalogue lists only Appeal 890; complete source lists 890-892.

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 web discovery and retained primary comparison performed. Parashuram Pottery and Rajesh Jhaveri are not direct citation treatment of Modi. No comprehensive adverse-treatment or remand-outcome verification; current law and 2025 mapping remain not_verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 5](#)

SHA-256: 89f0dc40c8ba8474f7cf7f9bc618cd58837e3bd8a907808d9a1e9f779a11bad3

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

SHA-256: 1075f25c6b596d71ece51d412b73a79de7b72cf2b5c1e31d500671796f6caa4a

[later reported judgment bounded comparison - PDF pages: 14](#)

SHA-256: 540d9cd29307dc1af558d0b0e6633429e2965e2af39edfb1e7c3b7e0f3842a1c

[official government hosted historical compilation bounded - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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