

Commissioner of Income Tax, Madras v. S. Chenniappa Mudaliar, Madurai

Civil Appeal No. 1015 of 1968 — Revenue certificate appeal on validity of dismissal-for-default rule and connected proceedings (full list below)

[1969] 3 SCR 818 | 1969-02-24

The Tribunal had to decide a properly filed appeal on its merits; the 1948 version of rule 24 could not authorise dismissal merely for non-appearance contrary to section 33(4).

1922 Act: 5A(8) | 1922 Act: 33(4) | 1922 Act: 66 | 1922 Act: 66A | 1922 Act: 10(5A) (underlying tax issue, not decided)

3 Judges | J. C. Shah | V. Ramaswami | A. N. Grover

01 FACTS OF THE CASE

Chenniappa sold shares in two textile-related companies. The officer taxed profits of ₹72,515 and ₹3,14,100 as compensation for parting with effective management under section 10(5A), and the appellate commissioner agreed. After adjournments, neither the assessee nor counsel appeared on the Tribunal's hearing date. The Tribunal dismissed for default under rule 24 of the 1946 Rules, as amended in 1948, and declined restoration. It also refused a reference. The High Court directed a statement on rule validity and taxability; its Special Bench held the default-dismissal rule inconsistent with section 33(4). Revenue appealed on the rule question alone.

Source: [SCR 819-820: assessment dispute, default, restoration and reference questions.](#)

02 DISCUSSION BY THE HON'BLE COURT

Grover J read the procedural rule-making power in section 5A(8) as subject to the Act. Section 33(4), allowing such orders "thereon" as the Tribunal thought fit after giving an opportunity to be heard, required adjudication of the appeal's subject matter on fact and law. An opportunity not taken did not dispense with that duty. The statutory reference scheme reinforced the conclusion: factual decisions were final at Tribunal level, while the High Court's advisory role depended on legal questions arising from a proper Tribunal order. A mere default dismissal would obstruct that route. The Court considered earlier decisions sustaining rule 24, finding little supporting reasoning, and distinguished a case where validity had not been canvassed. Although the rules then contained no restoration provision, it was unnecessary to resolve the wider conflict about inherent restoration powers. Even assuming such a power, the rule still conflicted with the substantive statutory obligation.

Source: [SCR 820-825: rule history, statutory scheme and authorities.](#)

03 JUDICIAL DECISION

The Court affirmed the Special Bench and held the challenged rule invalid to the extent it permitted dismissal for non-appearance. Revenue's appeal was dismissed with costs. It did not determine whether the share-sale receipts were taxable under section 10(5A), nor decide the contemporary operation of later procedural rules. The outcome establishes the need for a merits decision, not success for an absent appellant on the tax dispute.

Source: [SCR 824C-826A: merits duty, unresolved inherent-power issue and repugnancy.](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue appeal dismissed with costs; affirmative answer on rule invalidity upheld. Default alone could not replace a merits adjudication under section 33(4). Procedural validity decided; underlying taxability was outside the appeal's sole question.

Source: [SCR 826A-B: High Court answer affirmed and appeal dismissed.](#)

05 AKHB REVIEW POINT

Distinguish failure to attend from failure of the appeal on its record. The Tribunal may have to decide against an absent party on the merits, but subordinate procedure cannot erase its statutory task. The similar later "orders thereon" wording is a bounded textual comparison; current rules, restoration deadlines and the applicable appeal framework need separate verification.

Source: [SCR 823-825: statutory adjudication duty and limits of procedural rules.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 1015 of 1968 — Revenue certificate appeal on validity of dismissal-for-default rule / Tax Case No. 194 of 1961; Reference No. 74 of 1961 — Originating High Court proceedings; not additional Supreme Court appeals

SOURCE & VERIFICATION

Original reported Supreme Court judgment

9-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All nine physical text/image pages SCR818-826; first-page folio absent, 819-826 printed. Headnote physical 1-2, Grover opinion physical 2-9; no adjacent case. Supreme 1015/1968, HC TC 194/1961 Ref 74/1961. Rule 24 as amended 1948 only adjudicated; 1961 Act rule mentioned historically, no contemporary rule conclusion. Section 10(5A) tax merits expressly outside sole appeal question. Inherent restoration power assumed without deciding conflict.

Open cited source rendition

First physical page has no visible 818 folio; subsequent 819-826 establish sequence.

Discussion of rules after the 1961 Act is historical narrative; it is not verified present rule text.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 5A(8), 33(4), 66, 66A, 10(5A) (underlying tax issue, not decided)

The separately dated 2020 section 254(1) retains hearing-opportunity and orders-thereon language. The request for the 2025 HTML rendition failed with 403. The latest 1961 rule 24, restoration limits and stay law are not certified.

Section 363(1) also uses orders-thereon language following a hearing opportunity. Textual continuity does not establish a complete current procedural remedy; current rules and their application were not verified.

The operative historical law governs this holding. The 2025 Act generally commences on 1 April 2026; the selected section 536 savings preserve earlier operations, rights and specified proceedings for earlier tax years. Only stated passages and versions were read. No complete savings, amendment-history or present-case applicability assessment is claimed.

Other provisions addressed: Income-tax Appellate Tribunal Rules, 1946, rule 24 as amended 26 January 1948

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted; this is not a finding that later treatment is absent.

Comprehensive subsequent history and present-law applicability remain unverified.

Primary authorities cited within this judgment are not later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 2025: commencement and selected savings](#)

As amended by Finance Act, 2026 1(1)-(3), web 0-13; 536(1), (2) intro/(a)-(e), 24385-24408 and (3)-(4), 24597-24601; not whole 536. Exact stated retained text read personally. No raw statutory PDF/HTML or page-image reading, whole-Act review or automatic present-case applicability is asserted.

[Income-tax Act, 1961: Tribunal orders](#)

Displayed 2020, not latest 1961 version 254(1) web 65 adopted; remaining returned section/footnotes read as context. Attempted 2025 rendition 403, no body read. Exact stated retained text read personally. No raw statutory PDF/HTML or page-image reading, whole-Act review or automatic present-case applicability is asserted.

[Income-tax Act, 2025: Tribunal orders](#)

As amended by Finance Act, 2026 Complete 363(1)-(11), 18536-18583, and footnote 18593-18596 read; only 363(1) adopted for merits-hearing comparison. Exact stated retained text read personally. No raw statutory PDF/HTML or page-image reading, whole-Act review or automatic present-case applicability is asserted.

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