

Commissioner of Income-tax, West Bengal, Calcutta & Anr. v. Hemchandra Kar & Ors.

Civil Appeal No. 2273 of 1966

[1971] 1 SCR 283 | 1970-04-16

Second reassessment cannot rest on changed opinion after possession of all primary facts.

Indian Income-tax Act, 1922: section 34(1)(a) | Indian Income-tax Amendment Act, 1953: section 31

3-judge bench | J. C. Shah, J. | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: 1946-47

Jurisdiction outcome, not ownership finding

The question whether the Rs.1,10,000 belonged to the family became academic once the second reopening failed.

01 FACTS OF THE CASE

After demonetisation, the HUF encashed Rs.19,000 in high-denomination notes and five members separately encashed Rs.1,10,000. Reassessments completed on 31 January 1955 added the former to the family and the latter amounts to the members. Two days later, the Officer issued another section 34 notice to the family to add Rs.1,10,000 there. The High Court held the second notice incompetent.

Source: [SCR pp.284-285](#) / [PDF pp.2-3](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 34(1)(a) required escapement attributable to the assessee's omission or failure to disclose material facts. The Officer already possessed all primary facts when making the first reassessments, including knowledge relevant to treating the members as name-lenders. The later attempted family assessment arose from his failure to draw the appropriate inference earlier, rather than qualifying nondisclosure. Merely changing opinion a few days later could not satisfy the provision.

Source: [SCR pp.285-287](#) / [PDF pp.3-5](#)

03 JUDICIAL DECISION

The Revenue appeal was dismissed with costs. The High Court's negative answer on validity of the second reassessment was upheld; the ownership/inclusion question did not require an answer because it had become academic.

Source: [SCR p.287 / PDF p.5](#)

04 OUTCOME / IN WHOSE FAVOUR

The assessee HUF succeeded on the validity of the second reopening. The Supreme Court did not give it a substantive finding that the encashed amounts belonged individually to its members.

Source: [SCR p.287 / PDF p.5](#)

05 AKHB REVIEW POINT

AKHB analysis: compare recorded reasons with the material actually possessed during the earlier assessment and distinguish new facts from changed inferences. Preserve the earlier orders and enquiry records. Keep a jurisdictional victory separate from the underlying ownership issue, and verify the governing reopening regime before applying this historical decision.

Source: [AKHB analysis based on SCR pp.285-287 / PDF pp.3-5](#)

SOURCE & VERIFICATION

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

Full 5-page SCR report read, separating the editorial headnote from the judicial text.

[Open cited source rendition](#)

Full source read; exact original bytes match the catalogue SHA-256. Judicial text is unnumbered, so SCR and PDF page pinpoints are used.

STATUTORY SCOPE

The Court applied section 34 as amended in 1948 through section 31 of the 1953 amending Act. Modern reopening provisions and time limits require separate verification.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive subsequent treatment has not been verified; no current citator clearance is represented.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.