

Commissioner of Income-tax, West Bengal v. Anwar Ali

Civil Appeal No. 2560 of 1966

[1971] 1 SCR 446 | 1970-04-29

Historical concealment penalty: rejection of the assessee's explanation alone did not establish the penal charge under section 28(1)(c).

Indian Income-tax Act, 1922: section 28(1)(c)

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

Assessment years: 1947-48

Historical statutory scope

This ruling addresses section 28(1)(c) of the repealed 1922 Act. Its historical burden-of-proof reasoning must not be assumed to govern later penalty provisions, statutory presumptions or amendments without checking their text and subsequent judicial treatment.

01 FACTS OF THE CASE

During assessment for 1947-48, the officer discovered an undisclosed bank deposit of Rs. 87,000 made on 21 November 1946. The assessee said that relatives had entrusted the money to him for safekeeping during communal disturbances. That explanation was rejected, and the addition as undisclosed income survived appeal. The officer separately imposed a Rs. 66,000 concealment penalty. The Tribunal removed the penalty because the Department had not established its case beyond rejection of the explanation; the High Court agreed.

Source: [SCR pp. 447-449](#) / [PDF pp. 2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated section 28 as penal in character despite the description of penalty as additional tax in a different context in *C. A. Abraham*. Under the provision then applicable, the Department had to establish that the disputed receipt was income and that the assessee consciously concealed income or deliberately furnished inaccurate particulars. Assessment findings were relevant evidence, but not conclusive in penalty proceedings. A false or rejected explanation alone did not necessarily establish the receipt's income character; the whole circumstances had to support the penal conclusion.

Source: [SCR pp. 449-451](#) / [PDF pp. 4-6](#)

03 JUDICIAL DECISION

No cogent material beyond the falsity of the explanation was suggested to establish the required income character and concealment. The Court held that the High Court had correctly answered the penalty question in the assessee's favour. The Revenue appeal was dismissed with costs.

Source: [SCR pp. 451 / PDF pp. 6](#)

04 OUTCOME / IN WHOSE FAVOUR

The assessee succeeded against the penalty. This did not reverse the underlying assessment addition, which the judgment records as having been maintained. Assessment and penalty outcomes therefore need to be reported separately.

Source: [SCR pp. 448-451 / PDF pp. 3-6](#)

05 AKHB REVIEW POINT

AKHB analysis: build a separate evidence and statutory-elements analysis for penalty proceedings instead of treating an assessment addition as automatically decisive. Record the exact penalty provision, applicable year, presumptions, explanation and supporting material. This historical section 28 ruling does not provide current-law clearance or a standalone defence under later penalty regimes.

Source: [AKHB analysis based on SCR pp. 450-451 / PDF pp. 5-6](#)

SOURCE & VERIFICATION

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STATUTORY SCOPE

This ruling addresses section 28(1)(c) of the repealed 1922 Act. Its historical burden-of-proof reasoning must not be assumed to govern later penalty provisions, statutory presumptions or amendments without checking their text and subsequent judicial treatment.

LATER TREATMENT

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

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