

India Machinery Stores (P) Ltd. v. Commissioner of Income-tax, Bihar

Civil Appeal No. 376 of 1967 — Assessee appeal by certificate under section 66A(2) / Miscellaneous Judicial Case No. 38 of 1962 — Originating High Court proceedings; not additional Supreme Court appeals

[1971] 1 SCR 539 | 1970-05-06

A bare statement that a tax reference was fit for appeal did not satisfy section 66A(2); the certificate required a properly identified question of great public or private importance.

1922 Act: 66A(2) | 1922 Act: 66(1) | 1922 Act: 66(2)

3 Judges | J. C. Shah | K. S. Hegde | A. N. Grover

01 FACTS OF THE CASE

The company acquired a business under an agreement dated 2 August 1956 providing that assets would be taken at the vendors' book value as at 1 August. The vendors' stock stood at ₹1,77,285; the company entered opening stock at ₹2,10,285. The officer added the ₹33,000 difference for AY 1958-59, treating the higher opening figure as contrary to the agreement. Both appellate authorities agreed. The Patna High Court answered the company's reference question adversely but granted a certificate stating only that the requirements of section 66A(2) were met and that the case was fit for appeal. Revenue challenged the certificate's competence.

Source: [SCR 540-541: acquisition agreement, figures and bare certificate.](#)

02 DISCUSSION BY THE HON'BLE COURT

Shah J accepted the objection. The phrase "fit one for appeal" required a judicial exercise reflected in reasons, rather than an automatic certificate whenever a reference involved law. The Court examined the analogous language in civil procedure and constitutional appeal provisions and the Privy Council authorities, including Chitnavis. It distinguished a question of law sufficient for a section 66 reference from the question of great public or private importance needed for the proposed Supreme Court appeal. Treating the former as enough would make every reference opinion appealable. A practice of issuing unexplained certificates could not override established requirements. Supreme Court jurisdiction required a properly issued certificate or special leave under Article 136. Separately, the Court examined the stock dispute and found no merit: the company had not explained the discrepancy between the operative agreement and its schedule, and the concurrent finding of inflated opening stock raised no question of law.

Source: [SCR 541-544: certification standard, authorities and jurisdictional routes.](#)

03 JUDICIAL DECISION

The certificate was defective. The Court additionally held that the reference itself was incompetent because no question of law arose from the Tribunal's factual finding. The appeal was dismissed with costs. The judgment did not establish a general rule requiring every business purchaser to adopt the seller's closing-stock value; its alternative reasoning depended on this agreement and unexplained discrepancy.

Source: [SCR 544F-545B: stock discrepancy and no law question.](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee appeal dismissed with costs. No relief from the ₹33,000 addition. Defective certificate and absence of a referable law question; alternative case-specific stock reasoning.

Source: [SCR 545B: dismissal with costs.](#)

05 AKHB REVIEW POINT

For a proposed further appeal, identify the statutory gateway and the precise legal importance claimed. A certificate cannot be a formula, and a disagreement about established facts does not become a legal question by framing it as contract construction. Modern High Court appeals and Supreme Court certification must be examined separately under their applicable provisions.

Source: [SCR 543-545: reasoned certification versus factual disagreement.](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

7-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 seven text/image pages SCR539-545; headnotephysical1-2, Shah opinionphysical2-7; no adjacent case. Supreme appeal376/1967, Patna MJC38/1962. Headnote openingstock2,10,225 vs opinion2,10,285 and schedule2,10,285.87; opinion controls, no silent correction. Certificate defective; alternative discussion finds no law question and reference incompetent; appeal dismissed costs.

Open cited source rendition

Headnote SCR 539 prints opening stock ₹2,10,225; opinion SCR 541/544 prints ₹2,10,285 and schedule SCR 545 prints ₹2,10,285.87. The ₹33,000 addition is the Court's stated figure.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 66A(2), 66(1), 66(2)

Section 261 preserves a certificate route, distinguishing references concerning pre-1 October 1998 Tribunal orders from later High Court appeals. Section 256 contains that historical cutoff; section 260A, displayed 2024 (No. 2), requires a substantial question of law and its prescribed formulation. These are distinct gateways.

Section 365, displayed 2026, sets the substantial-question High Court appeal; section 367 permits a Supreme Court appeal where the High Court certifies fitness. The latter omits the older reference route. No automatic appeal entitlement or inventory outcome is inferred.

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: Constitution of India, Article 136; Historical comparisons: CPC 109(c), Constitution 133(1)(c) and 134(1)(c)

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: Supreme Court certificate](#)

Displayed 2025 Header 198–220; complete 261 at 225–228. 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: Supreme Court certificate](#)

As amended by Finance Act, 2026 Complete 367, web 18662–18667. 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: appeal/reference route](#)

Displayed 2025 Identity/version lines 38–58; full section 256(1)–(3), including (2A), lines 63–71. 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: appeal/reference route](#)

Displayed 2024 (No. 2) Identity/version lines 38–58; full section 260A(1)–(7), including (2A) and (4) proviso, lines 63–88. 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: appeal/reference route](#)

Displayed 2026 Identity/version lines 38–58; full section 365(1)–(10), lines 61–83. 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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