

Commissioner of Income Tax, Calcutta v. Burlop Dealers Ltd.

Civil Appeal No. 649 of 1967 — Revenue special-leave appeal from refusal of reference relief / Income-tax Reference No. 114 of 1965 — Originating High Court proceedings; not additional Supreme Court appeals

[1971] 3 SCR 410 | 1971-01-21

On the disclosed-primary-facts finding, a later change in inference could not sustain section 34(1)(a) reopening; the information route under section 34(1)(b) was already time barred.

1922 Act: 34(1)(a) | 1922 Act: 34(1)(b) | 1922 Act: 34(1), Explanation | 1922 Act: 66(1) | 1922 Act: 66(2)

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

01 FACTS OF THE CASE

For AY 1949-50, Burlop disclosed ₹1,75,875 profit from its financing arrangement with H. Manory Ltd. and claimed that ₹87,937 had been paid to Ratiram Tansukhrai under a second financing agreement. The officer accepted half the joint-venture profit as Burlop's income. For the following year he treated the second agreement as a device and taxed the full profit; that separate assessment survived appeal and reference. He then issued a notice on 13 May 1955 reopening 1949-50 and added the earlier ₹87,937 under section 34(1)(a). The Tribunal reversed, finding that relevant accounts and documents had been produced. Applications for a reference under sections 66(1) and 66(2) failed.

Source: [SCR 411-412: both-year chronology and refused reference applications.](#)

02 DISCUSSION BY THE HON'BLE COURT

Shah CJ distinguished the historical reopening routes. Information giving reason to believe income escaped could appropriately fall within section 34(1)(b), but its four-year notice period had expired. The longer route under clause(a) required an omission or failure to disclose fully and truly material facts. Applying Calcutta Discount, the Court separated the assessee's duty to disclose primary facts from the officer's responsibility to draw factual and legal inferences. It expressly recognised that mere production of books from which facts might be discovered did not necessarily discharge the disclosure duty. On this record, however, the Tribunal's finding established disclosure of the relevant primary material. An inference the officer could have drawn but later regarded differently did not establish the required failure by the assessee.

Source: [SCR 412G-414E: statutory routes, disclosure duty and inferential responsibility.](#)

03 JUDICIAL DECISION

The Revenue's appeal was dismissed with costs, leaving the Tribunal's exclusion of ₹87,937 for 1949-50 undisturbed. The Court did not invalidate the next year's separate assessment or decide that every claimed agreement must be accepted as genuine. Its result concerned the conditions for the particular reopening route, on the disclosure finding before it.

Source: [SCR 413D-414F: time-barred information route and clause\(a\) failure.](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue appeal dismissed with costs. The 1949–50 addition under section 34(1)(a) remained excluded. Reopening condition decided; later-year merits outcome was background.

Source: [SCR 414E–F: exclusion rationale and dismissal with costs.](#)

05 AKHB REVIEW POINT

Identify what was actually disclosed and what new material later emerged. Phool Chand Bajrang Lal subsequently explained Burlop as a case without fresh material, distinguishing specific reliable information exposing a false transaction from a new inference on the same record. That limitation is central; neither disclosure of paper entries nor an officer's earlier failure to investigate is a universal bar to reopening.

Source: [SCR 413–414: primary facts versus inference; separately identified PhoolChand later explanation.](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

5-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 five physical text/image pages SCR410–414; headnotephysical1, ShahCJ opinionphysical2–5 and dismissal with costs. Headnote says HighCourt on reference answered; opinionphysical3 says66(1)and66(2)applications rejected, controls procedural account. No adjacent case. Primary-fact disclosure finding distinguished from mere books rule and later PhoolChand limitation to be independently read.

Open cited source rendition

Headnote describes a favourable High Court reference answer; judicial text SCR 412 says reference applications were rejected.

The later Phool Chand source prints 79 ITR 609 for Burlop; this SCR original does not print that parallel citation. Matching names, dates, amounts, agreements and procedural history establish the link.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 34(1)(a), 34(1)(b), 34(1), Explanation, 66(1), 66(2)

The displayed 2025 section 147 rendition has a materially different structure, subject to sections 148–153; its returned opening lacks closing punctuation. It does not reproduce the former clause (a)/(b) scheme or its eight-year/four-year periods.

Section 279(1)–(3) provides the escaped-income power subject to sections 280–286. Its Finance Act 2026 insertion defines the relevant Assessing Officer for sections 280 and 281. Only section 279 is adopted here; no complete modern notice, limitation or reopening-validity assessment is claimed.

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.

LATER TREATMENT

Source checked 2026-10-08. Phool Chand Bajrang Lal v. ITO, 13 July 1993, [1993] Supp. 1 SCR 28, physical pages 17-21 / SCR 44-48 and 24-26 / SCR 51-53, expressly explains Burlop. It distinguishes a different inference on the original record from specific, reliable later information exposing a false transaction. Burlop had no fresh material beyond the later-year assessment finding; it was not a universal bar to reopening. Phool Chand upheld initiation under the then sections 147(a) and 148 but expressly left reassessment merits open. Its citation of 79 ITR 609 is attributed to that later source; the detailed reproduction of Burlop's parties, agreements, amounts and procedure independently matches this primary judgment.

Comprehensive subsequent history and present-law applicability remain unverified.

Only physical pages 1, 6, 17-21 and 24-26 of Phool Chand were read in text and images. Its direct explanation and reservation of reassessment merits are verified. Intervening pages and comprehensive later history are not certified.

IDENTIFIED SOURCE LINKS

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

As amended by Finance Act,2026 1(1)-(3),web0-13;536(1),(2)intro/(a)-(e),24385-24408 and(3)-(4),24597-24601;not whole536. 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.

[Phool Chand Bajrang Lal and Another v. Income Tax Officer and Another](#)

Only physical pages 1, 6, 17-21 and 24-26; SCR 28, 33, 44-48 and 51-53. Judicial explanation of Burlop is at SCR 44-48 and 52. The final page, SCR 53, upholds initiation but expressly leaves reassessment merits open. Existing primary ownership retained. Exact retained source bytes checked before/after; only listed texts/images personally read. No fresh endpoint authentication or comprehensive later history. Text pages read: 1, 6, 17-21, 24-26. Image pages read: 1, 6, 17-21, 24-26.

[Income-tax Act,1961: returned section147](#)

Displayed2025 Returned opening and Explanation,web63-65;opening ends without closing punctuation,not raw-page completeness. 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: section279](#)

As amended by Finance Act,2026 Complete279(1)-(3),web15022-15034;FA2026footnote15061;no full280-286notice review. 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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