

Commissioner of Income Tax, West Bengal v. Balkrishan Malhotra

Civil Appeal No. 1391 of 1967

[1971] Supp SCR 951 | 1971-07-28

Reassessment limitation: assessment completed only when tax payable was determined under the 1922 Act.

Indian Income-tax Act, 1922: sections 22, 23, 28 and 34(3)

2-judge bench | K. S. Hegde, J. | A. N. Grover, J.

Assessment years: 1944-45

Express historical limitation

The holding rests on the wording and settled administrative understanding of section 34(3) of the repealed 1922 Act. The Court itself cautioned that the successor Act differed materially.

01 FACTS OF THE CASE

Revenue reopened AY 1944-45 after sanction and served notice on 13 March 1953. On 8 March 1954, the officer computed total income at Rs.60,000 under sections 34/23(4) but did not determine tax. Tax was determined and a demand issued only on 31 March 1954. The authorities rejected the assessee's time-bar plea; the High Court accepted it.

Source: [SCR pp. 951-953 / PDF pp. 1-3](#)

02 DISCUSSION BY THE HON'BLE COURT

The word "assessment" took meaning from context. Although section 23 used "assess" for computing income, its operative provisions also required determination of the sum payable. A 1953 Madras precedent had long read "assessment" in the section 34(3) proviso as including tax determination, no High Court had differed, and Revenue had acted on that settled interpretation. The Court declined to unsettle it, particularly because the 1922 Act had been repealed and the 1961 provisions materially differed.

Source: [SCR pp. 953-955 / PDF pp. 3-5](#)

03 JUDICIAL DECISION

Revenue's appeal failed and was dismissed without an order as to costs, leaving the High Court's answers and time-bar conclusion in favour of the assessee undisturbed.

Source: [SCR pp. 954-955 / PDF pp. 4-5](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee on limitation under the historical reassessment provision. The result does not determine when a current assessment order is made or served.

Source: [SCR pp. 954-955 / PDF pp. 4-5](#)

05 AKHB REVIEW POINT

AKHB analysis: build a dated chronology separating income computation, tax determination, order finalisation, service and demand. Then apply the exact limitation text for the relevant assessment year. This precedent is useful for statutory context and settled construction, but its own warning against transplanting it to the materially different 1961 Act is decisive.

Source: [AKHB analysis based on SCR pp. 953-955 / PDF pp. 3-5](#)

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STATUTORY SCOPE

The Court expressly noted that the corresponding 1961 Act provisions were materially different. This decision should not be used as a current limitation rule under the 1961 or 2025 Acts.

LATER TREATMENT

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

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