

T.S. Balaram, Income-tax Officer v. Volkart Brothers, Bombay

Civil Appeal No. 1170 of 1968

[1972] 1 SCR 30 | 1971-08-05

Could the Income-tax Officer use section 154 to replace registered-firm slab-rate assessments with maximum-rate assessments under section 17(1) of the 1922 Act when the application of that provision to a firm was debatable?

154 | 2(31) (comparison; substantive effect unresolved) | 113 (historical omission noted)

Two judges | K.S. Hegde, J. | A.N. Grover, J.

Assessment years: 1958-59, 1960-61, 1961-62, 1962-63

Rectification jurisdiction only; underlying rate unresolved

All four challenged years were tested under section 154. The Court did not decide whether the firm was substantively within section 17(1) of the 1922 Act, and it did not endorse the High Court's merits view of the original assessments. The High Court petition year conflicts within the report. Later Saurashtra Kutch allows rectification for an ignored binding precedent under section 254(2), and section 154's text and time computation changed historically. Original judgment PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

Volkart Brothers was a registered firm under both the 1922 and 1961 Acts. Respondents 2 and 3 were its partners. For AYs 1958-59, 1960-61, 1961-62 and 1962-63 the firm was originally assessed at the slab rates prescribed for registered firms by the respective Finance Acts. The partners' shares were included in their individual assessments and taxed at maximum rates because those assessments treated them as non-residents. The Court does not state tax or income amounts (physical page 2/SCR 31 D-H).

Notices dated 29 January 1965, served on 1 February 1965, said the firm should have been charged at the maximum rates under section 17(1) of the 1922 Act and proposed rectification under section 154 of the 1961 Act. The respondents denied any mistake and disputed the officer's authority. The officer nevertheless revised the assessments by applying section 17(1). Their Article 226 petition succeeded in the Bombay High Court, which considered the original assessments *prima facie* lawful and, in any event, found no obvious or patent mistake permitting rectification (physical pages 2-3/SCR 31 G-32 D).

The Revenue appealed by certificate. The report's appellate recital identifies High Court Misc. Petition 104 of 1965 and decision dates 3 and 6 February 1967; the opening judicial paragraph instead prints petition year 1968. The Supreme Court appeal is consistently Civil Appeal 1170 of 1968. This discrepancy does not alter the four expressly identified assessment years or the rectification issue (physical page 2/SCR 31 B-E).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

Section 154, as reproduced for the relevant purpose, authorised correction of a mistake apparent from the record. The Court first asked whether that jurisdictional condition existed. The corresponding 1922 provision was section 35, but the challenged orders were expressly made and tested under section 154 (physical page 3/SCR 32 D-H).

Section 17(1) imposed the relevant non-resident rate treatment on a person who was not a company. Whether a firm fell within that term was open to argument. Section 2(9) of the 1922 Act inclusively mentioned a Hindu undivided family and a local authority; section 2(31) of the 1961 Act expressly included a firm among its categories. Deciding whether the new definition changed earlier law or merely declared it would require examination of the provisions and statutory scheme. The Court did not decide that substantive question. It also recorded that the then section 113, corresponding to section 17(1), had been omitted by the Finance Act, 1965 with effect from 1 April 1965 (physical pages 4-5/SCR 33 A-34 C).

Because the application of section 17(1) to this firm was not free from doubt, the officer could not decide the true scope of those provisions through rectification. A record-apparent mistake must be obvious and patent; an issue requiring extended reasoning where two views are conceivably possible is outside that power. The Court referred to Satyanarayan Laxminarayan Hegde in the Article 226 context and Sidhramappa on a debatable legal point (physical page 5/SCR 34 C-H).

The High Court itself had gone too far in considering the original assessments lawful on the merits. The Supreme Court upheld the jurisdictional objection without approving that separate merits conclusion. Its comparison with the High Court's apparent-error jurisdiction did not resolve every distinction between the two expressions; the Court expressly found it unnecessary to spell out that distinction. The decisive finding was that no apparent mistake existed in these assessments (physical pages 5-6/SCR 34 F-35 B).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

The Revenue's Civil Appeal 1170 of 1968 was dismissed with costs. The High Court's rejection of the challenged section 154 rectifications therefore stood. No remand or fresh computation was directed. The judgment does not determine that a firm was substantively excluded from section 17(1), certify the original rates as correct, quantify a refund, or decide a transitional section 297 question (physical page 6/SCR 35 A-C, read with SCR 34 B-F).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Volkart Brothers and the respondent partners; Revenue appeal fails

Appeal dismissed with costs

Section 154 jurisdiction decided; substantive applicability of the old maximum-rate provision left unresolved

No ruling that every legal error is unrectifiable, no determination of the correct underlying rate and no general decision on 1961 Act transition.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Separate a wrong assessment from a rectifiable assessment. Identify the precise error and show why it is apparent on the existing record; the section 154 route cannot be used to settle the unresolved meaning of a taxing provision merely by calling it an obvious mistake. Equally, this case is not authority that a firm could never fall within the old non-resident-rate provision: that question was deliberately left open.

Saurashtra Kutch Stock Exchange (15 September 2008) expressly cites Balaram and reiterates the patent-error limit, while holding under section 254(2) that failure to consider a binding jurisdictional High Court or Supreme Court decision can be a mistake apparent from the record. On its facts the binding High Court decision preceded the Tribunal's order but had not been brought to its notice. The Court left the underlying tax exemption merits for rehearing. This is a material limit on an overbroad reading that every legal issue or prior adjudication is immune from rectification; it is not an overruling of Balaram (physical pages 16 and 20-24/SCR 436 and 440-444, paragraphs 30, 37-49).

The government-hosted 2011 compilation records later substitutions of section 154(1), including the 1989 substitution, and a 1984 change in section 154(7)'s four-year starting point from the order date to the end of the relevant financial year (physical pages 735-736/printed 1.694-1.695, footnotes 55 and 66). These are historical checks, not a present procedural checklist. The section 113 discussed in the 1971 judgment is the then provision, not a certification of later provisions bearing that number. Comprehensive later treatment, current-law applicability and 2025 mapping remain not verified.

Source: See the proposition-specific paragraph and PDF-page references below.

DETAILED DISPOSITION AND CONNECTED GROUPS**Proceeding outcomes**

1.

Case number: Civil Appeal No. 1170 of 1968

Assessment years: 1958-59; 1960-61; 1961-62; 1962-63

Outcome: Dismissed with costs; challenged rectifications do not stand

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal and conflicting High Court petition year

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 30 heading; 31 B-E

2.

Topic: Four assessment years, original rates, notices and challenge

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: SCR 31 D-32 D

3.

Topic: Actual section 154 jurisdiction

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: SCR 32 D-H

4.

Topic: Person definitions and unresolved substantive law; old section 113 omission

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 33 A-34 C

5.

Topic: Debatable-law limit; High Court merits view not endorsed

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 34 C-35 B

6.

Topic: Dismissal and costs

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 35 B-C

7.

Topic: Later binding-precedent application and merits limit

Source url: [Open cited source](#)

Pdf pages: 16; 20; 21; 22; 23; 24

Paragraphs: SCR 436,440-444; paragraphs 30,37-49

Source role: later judicial treatment

8.

Topic: Historical section 154 substitutions and limitation-base change

Source url: [Open cited source](#)

Pdf pages: 735; 736

Paragraphs: Printed 1.694-1.695, footnotes 55 and 66

Source role: historical statutory change

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Actual section 154 jurisdiction is adjudicated, notwithstanding the older assessment years and the 1922 Act rate provision. Section 2(31) is examined to show why the underlying interpretation is debatable; whether it amended or merely declared earlier law is not decided.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K.S. Hegde, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, section 154; underlying rate dispute under Indian Income-tax Act, 1922, section 17(1)

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: 2008_13_421_444

Title: ASSISTANT COMMISSIONER, INCOME TAX, RAJKOT versus SAURASHTRA KUTCH STOCK EXCHANGE LTD.

Decision date: 2008-09-15

Classification: Express citation; later application clarifies limits of an overbroad reading

Source url: [Open cited source](#)

Pdf pages: 16; 20; 21; 22; 23; 24

Pinpoint: Paragraphs 30,37-49; SCR 436,440-444

Holding limit: Section 254(2) permits rectification of ignored binding judicial authority; actual exemption merits left open. No overruling of Balaram asserted.

Bounded check: verified only within explicit read bounds

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, sections 2(9), 17(1) and 35; Finance Acts for the respective assessment years (slab rates); Finance Act, 1965 (omission of then section 113, as stated in the judgment); Constitution, Article 226

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 6 PDF pages; SHA-256

fd28adb291b6c669e6b761e571469c1c4bb9af0a830838ea1ee4573942a8abd9. Original bytes preserved.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; later treatment comprehensive: not_verified; current law status: not_verified; statutory mapping 2025: not_verified

The printed decision date is 5 August 1971 although the SCR report year is 1972. Catalogue identifier 1971INSC179 is not printed or independently authenticated in this rendition.

The report is [1972] 1 SCR but the decision is dated 5 August 1971.; The High Court petition is printed as 104 of 1965 in the appellate recital but 104 of 1968 in the judicial opening; no silent correction is made.; AY 1959-60 is not one of the four years. No assessment amounts or refunds are supplied.; The substantive section 17(1) firm/person issue, and whether section 2(31) changed earlier law, are expressly unresolved. The High Court's view approving the original assessments was not endorsed.; The Court does not settle the distinction between the two apparent-error formulations or a section 297 transitional issue.; The historical section 113 omission and later section 154 amendments are not present-law certification.

These four non-contiguous years are expressly identified. AY 1959-60 is not included. The Court tests all challenged rectifications under section 154 of the 1961 Act; it does not separately adjudicate a section 297 transitional objection.

Appeal by certificate from Bombay High Court. The appellate recital gives judgment/order dates 3 and 6 February 1967 and Misc. Petition 104 of 1965; the judicial opening instead prints Misc. Petition 104 of 1968. Both printed years are retained as an unresolved source discrepancy.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk. Complete amendments, commencement, savings and case-specific present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. not_verified. Bounded Saurashtra Kutch review confirms express citation and the ignored-binding-precedent application under section 254(2). It does not establish complete citator coverage or the absence of all later qualifications.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 6](#)

SHA-256: fd28adb291b6c669e6b761e571469c1c4bb9af0a830838ea1ee4573942a8abd9

[later reported judgment bounded - PDF pages: 24](#)

SHA-256: 73c6639f27d084e49d9cc8f7cc0f489d24294de640c5c15d4df312fba94fa56

[official government hosted statutory compilation bounded - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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