

Commissioner of Income-tax, U.P. v. Gurbux Rai Harbux Rai

Civil Appeals Nos. 1225 and 1226 of 1967

[1972] 1 SCR 357 | 1971-08-24

Excess-profits reassessment: appellate information and the required sequence before an anti-avoidance adjustment.

Excess Profits Tax Act, 1940: sections 10A, 15 and 21 | Indian Income-tax Act, 1922: sections 34(1)(b) (analogy) and 66(1)

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

Assessment years: Chargeable accounting periods: 4 July 1943-21 June 1944 and 22 June 1944-10 July 1945

Historical statutory scope

This is a historical Excess Profits Tax Act decision. Its information and procedural-sequence reasoning must be tested against the exact enactment governing any modern reassessment or anti-avoidance proceeding.

Composite report: final result distinguished

The report includes the 21 January 1971 supplementary-reference direction and the final 24 August 1971 judgment. The latter allowed Revenue's appeals; the earlier direction is not the final outcome.

01 FACTS OF THE CASE

The registered firm operated businesses at Kanpur and Farrukhabad. It claimed that a partial partition in one partner's family had resulted in a separate Farrukhabad firm. An appellate income-tax order accepted the partial partition, after which the Excess Profits Tax Officer reopened the excess-profits assessments and applied section 10A to counter alleged tax avoidance. The High Court held that there was no definite information supporting reopening and consequently no jurisdiction for the adjustment. The Supreme Court initially sought a supplementary statement about whether section 15 proceedings preceded section 10A action.

Source: [SCR pp. 358-365](#) / [PDF pp. 2-9](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 10A supplied an adjustment power within an existing assessment or reassessment, not an independent proceeding. The supplementary record showed that the officer first ordered a section 15 notice and then a section 10A notice. Their issue on the same day did not invalidate that sequence. The appellate finding of partial partition was information from a superior authority, rather than the officer's own change of opinion, and supported section 15 jurisdiction. The appellate authority's failure to examine avoidance of excess-profits tax did not matter: its proceeding concerned income tax, while section 10A addressed a distinct avoidance question.

Source: [SCR pp. 362-367 / PDF pp. 6-11](#)

03 JUDICIAL DECISION

After receipt of the supplementary statement, the Court allowed the appeals with costs and one hearing fee. Both referred questions were answered for Revenue: there was definite information enabling reopening, and section 10A adjustments could be made in the revised section 15 assessment.

Source: [SCR pp. 365-367 / PDF pp. 9-11](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue obtained a final favourable answer on reopening jurisdiction and the availability of section 10A within those proceedings. The earlier direction for a supplementary statement was an interlocutory step and is not the final disposition reported here.

Source: [SCR pp. 363 and 367 / PDF pp. 7 and 11](#)

05 AKHB REVIEW POINT

AKHB analysis: preserve the notice order-sheet, issue/service sequence and the specific external decision said to provide new information. Analyse separately the power to reopen and the power to make an avoidance adjustment within a valid proceeding. The case does not permit a reassessment based only on a self-generated change of opinion, nor does it dispense with statutory conditions merely because two notices share a date.

Source: [AKHB analysis based on SCR pp. 365-367 / PDF pp. 9-11](#)

SOURCE & VERIFICATION

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This composite report reproduces an interlocutory order of 21 January 1971 delivered by Shah, C.J., then the final judgment delivered by Grover, J. The final decision date and Hegde/Grover bench follow the opening report heading and the final judgment; the running headers continue to say Shah, C.J.

The preliminary narrative refers to a 6 February 1951 notice; the supplementary record and final judgment establish the relevant sequence on 3 February 1951. The note uses the final adjudicated sequence.

STATUTORY SCOPE

This is a historical Excess Profits Tax Act decision. Its information and procedural-sequence reasoning must be tested against the exact enactment governing any modern reassessment or anti-avoidance proceeding.

LATER TREATMENT

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

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