

Commissioner of Income Tax, West Bengal-II, Calcutta v. M/s Electro House

Civil Appeals Nos. 1168-1171 of 1971 and 2376-2379 of 1968

[1972] 1 SCR 589 | 1971-09-02

Revision under section 33B: opportunity of hearing distinguished from a jurisdictional notice.

Indian Income-tax Act, 1922: sections 26A, 33B and 66

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

Assessment years: 1959-60, 1960-61

Limited procedural ruling

The Court decided only that section 33B did not make a prescribed notice a condition precedent to jurisdiction. It did not approve every form of hearing, decide the partnership's genuineness or answer the remaining reference questions.

01 FACTS OF THE CASE

The Income-tax Officer registered an alleged partnership for AY 1959-60 and renewed it for AY 1960-61. Treating those orders as erroneous and prejudicial to Revenue, the Commissioner issued a show-cause communication and commenced revision under section 33B. The High Court held the notice invalid and, on that basis, held that the Commissioner lacked jurisdiction, without answering two other referred questions.

Source: [SCR pp. 589-592](#) / [PDF pp. 1-4](#)

02 DISCUSSION BY THE HON'BLE COURT

Unlike section 34, section 33B did not prescribe service of a notice as a condition precedent. It required the Commissioner to give the assessee an opportunity of hearing before reaching the decision and permitted necessary enquiry. Those requirements belonged to natural justice: breach could affect the legality of the eventual order, but not the initial assumption of jurisdiction. The Court expressly declined to define the full content of the enquiry or decide whether another natural-justice breach occurred.

Source: [SCR pp. 592-593](#) / [PDF pp. 4-5](#)

03 JUDICIAL DECISION

The special-leave appeals were allowed. The High Court's answer was discharged and replaced with an answer that the notice did not contravene section 33B and the Commissioner validly exercised jurisdiction. The matter returned to the High Court for the unanswered questions. The parallel certificate appeals were dismissed as not maintainable, without costs.

Source: [SCR p. 593 / PDF p. 5](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue succeeded only on the threshold jurisdiction/notice issue. The substantive registration dispute and remaining questions were not finally decided by the Supreme Court.

Source: [SCR pp. 592-593 / PDF pp. 4-5](#)

05 AKHB REVIEW POINT

AKHB analysis: identify separately the statutory trigger for jurisdiction, any prescribed notice, and the content/timing of the opportunity to be heard. A defect that is not jurisdictional can still invalidate the final order for breach of natural justice. Do not present this remand as a merits finding on partnership genuineness.

Source: [AKHB analysis based on SCR pp. 592-593 / PDF pp. 4-5](#)

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STATUTORY SCOPE

The ruling concerns section 33B of the repealed 1922 Act. It does not dispense with any express notice requirement in a different statute or with the obligation to provide a fair hearing before decision.

LATER TREATMENT

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

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