

S. B. Jain, I.T.O., Nagpur v. Mahandera

Civil Appeal No. 1301 (NCT) of 1971 / Civil Appeal No. 1981 of 1968

[1972] 1 SCR 614 | 1971-09-07

Were section 34 proceedings factually pending on 1 April 1962 despite their later quashing as time-barred, thereby preventing a new notice under section 148 through section 297(2)(d)(ii)?

297(2)(d)(ii) | 148

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

Assessment years: 1946-47

A narrow 1922-to-1961 transition ruling with two appeal outcomes

A time-barred section 34 proceeding before a competent authority was factually pending on 1 April 1962, so section 297(2)(d)(ii) did not permit the fresh section 148 notice. The old notice was not validated. The report contains an inconsistent headnote assessment year, an implausible High Court date and a clause misprint; the two appeals had different costs orders. Bais later distinguished cases with no old proceeding pending. Original PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

For AY 1946-47, relating to calendar year 1945, the Income-tax Officer issued a section 34(1)(a) notice under the 1922 Act on 5 January 1962. The assessee challenged it under Article 226. The Bombay High Court quashed that notice on 6 March 1963 because it had been issued beyond the prescribed period. The 1961 Act had meanwhile commenced on 1 April 1962, when the earlier proceeding was factually still pending (physical pages 2 and 4/SCR 615 C-E; 617 B-D).

On 26 March 1963 the officer issued a fresh section 148 notice under the 1961 Act for the same assessment. A second writ petition succeeded because the officer was not competent to use that route. The Department first appealed on a High Court certificate. Because the certificate gave no reasons and was not in accordance with law, that appeal, No. 1981 of 1968, was not maintainable. The Department obtained special leave and brought No. 1301 of 1971 against the same judgment (physical page 2/SCR 615 A-F).

The printed appellate recital describes both matters as special-leave appeals and gives a High Court date of 15 November 1956 alongside Special Civil Application No. 150 of 1963. The judicial account and separate operative orders control the note's treatment of the two routes. The contradictory High Court date remains unresolved (physical page 1/SCR 614 G-H; pages 2 and 5/SCR 615 A-C; 618 C-D).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court set out the historical reassessment provisions and focused on the express transition condition. Section 297(2)(d)(ii) permitted use of the 1961 Act notice machinery for relevant pre-1962 years only where no section 34 proceedings concerning the escaped income were pending at commencement, subject to sections 149 or 150. The decisive question was whether the January 1962 proceeding was pending on 1 April 1962, not whether it would ultimately succeed (physical pages 2-4/SCR 615 F-617 B).

The Department accepted factual pendency but argued that the time-barred notice was invalid, so the resulting proceeding should count as non-existent in law. The Court rejected that approach. For this provision, factual pendency was sufficient. The proceeding had been initiated by a competent authority; its later failure because the notice was out of time did not erase its pendency at the statutory cut-off. The Court did not hold that the limitation defect had been cured or that the old notice could now support a valid reassessment (physical page 4/SCR 617 B-D).

Raja Kulkarni supplied an analogy concerning an appeal pending despite a competency objection, and Mela Ram supplied the distinction between an appeal and the limitation bar to its remedy. Those precedents supported the limited transition construction: a proceeding before a competent authority did not cease to be pending merely because relief could not be granted owing to limitation. The note does not extend that reasoning to every purported action taken by an authority lacking subject-matter competence (physical pages 4-5/SCR 617 E-618 B).

The Court concluded that section 34 proceedings were pending when the 1961 Act commenced, so the officer was not competent to issue the fresh section 148 notice. One line at SCR 617 C prints section 297(2)(a)(ii); the controlling quotation, issue and disposition identify section 297(2)(d)(ii). The misprint is disclosed rather than carried into the statutory classification (physical page 5/SCR 618 C).

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

03 JUDICIAL DECISION

Civil Appeal No. 1301 of 1971 failed on the merits and was dismissed with costs, leaving the second notice quashed. Civil Appeal No. 1981 of 1968 was separately dismissed as not maintainable, with each party to bear its own costs in that appeal. There was no remand or determination of the amount of escaped income (physical page 5/SCR 618 C-D).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the section 148 jurisdiction issue

Special-leave appeal dismissed with costs; certificate appeal dismissed as not maintainable with parties bearing their own costs

Express construction of section 297(2)(d)(ii), combined with a distinct certificate-maintainability disposition

The old time-barred notice was not validated; the fresh 1961 notice route was unavailable because of factual pendency at commencement.

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

05 AKHB REVIEW POINT

For a repeal-and-savings problem, build a dated chronology before analysing general limitation language: original notice, statutory commencement, disposal of the original proceeding, and attempted fresh notice. A later order setting aside the first notice does not necessarily rewrite what was pending at the commencement date. Preserve the distinction between competence of the authority and the limitation defect in the proceeding.

Mahadeo Prasad Bais (12 September 1991) later recounted Jain's factual-pendency rule and found it inapplicable where no section 34 proceedings had existed at commencement. Bais addressed a different question: reassessment under section 297(2)(d)(ii) to implement old-Act appellate findings, including section 150's relaxation subject to section 150(2). That distinction prevents Jain from becoming a universal bar on post-1962 reopening of an old assessment year (physical pages 5 and 8/SCR 13 B-C; 16 B-E; pages 11-12/SCR 19 E-20 F).

The retained 2011 government-hosted compilation reproduces the same pending-proceeding condition and the separate continuation route in section 297(2)(d)(i) (physical pages 1004-1005/printed 1.963-1.964). It is a bounded historical-text check. Neither the general pendency proposition nor this 1922-to-1961 transition should be carried automatically into the Income-tax Act, 2025 or another repeal clause. Comprehensive later treatment, present 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. 1301 (NCT) of 1971

Outcome: Dismissed with costs on the statutory transition issue

2.

Case number: Civil Appeal No. 1981 of 1968

Outcome: Dismissed as not maintainable; parties to bear their own costs

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, conflicting recital, two appeal routes and actual year

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 614 heading and G-H; 615 A-F

2.

Topic: Historical statutory quotation and transition condition

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 616 A-617 B

3.

Topic: Factual pendency, analogies and rejection of limitation argument

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 617 B-618 C

4.

Topic: Separate appeal outcomes and costs

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 618 C-D

5.

Topic: Later explanation and factual distinction of Jain

Source url: [Open cited source](#)

Pdf pages: 5; 8

Paragraphs: SCR 13 B-C; 16 B-E

Source role: later treatment

6.

Topic: Different section 150 issue and qualification

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: SCR 19 E-20 F

Source role: later treatment

7.

Topic: Historical transition text confirmation

Source url: [Open cited source](#)

Pdf pages: 1004; 1005

Paragraphs: Printed 1.963-1.964, section 297(2)(d)(i)-(ii)

Source role: historical statutory check

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

147 (historical routes quoted); 149 (historical time limit excerpt quoted); 150 (named in transition text); 139(2) (notice machinery quoted)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K.S. Hegde, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, section 297(2)(d)(ii) applied to a fresh section 148 notice; Indian Income-tax Act, 1922, section 34(1)(a) for the earlier proceeding

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: S 1991 1 9 20

Classification: Express explanation and distinction

Pinpoint: Physical page 8/SCR 16 B-E, with page 5/SCR 13 B-C and pages 11-12/SCR 19-20

Holding limit: No old section 34 proceeding pending there; Bais addressed section 150 implementation of old-Act findings, subject to section 150(2), rather than negating Jain's cut-off-date rule.

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, sections 34(1)(a) and 30 (the latter through Mela Ram); Constitution of India, Article 226; Industrial Disputes Act, 1950, section 24 as named in the judgment's account of Raja Kulkarni; historical enactment attribution not separately authenticated

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256

6c4d25213e41a9e2a0a136dee1012642dc8776fa8fb7507c03679a3112d27acb. 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

Decision date is 7 September 1971; 1972 is the report year. The caption spelling Mahandera is preserved. Catalogue INSC identifier is not independently authenticated.

The source caption is Mahandera; the later Bais discussion calls the case Jain v. Mahendra. The identical citation and factual account support the treatment link; the original title is preserved.; The headnote prints AY 1945-47, but judicial facts specify AY 1946-47, accounting calendar year 1945.; The appellate recital prints 15 November 1956 for a judgment in a 1963 petition; the exact correct date is not established here.; The recital broadly describes both appeals as by special leave, but the judicial body and final order distinguish the defective certificate appeal and replacement special-leave appeal.; Physical page 4/SCR 617 C prints 297(2)(a)(ii); the statutory quotation and issue are 297(2)(d)(ii). The page 1 heading itself prints 297; extracted 291 is an OCR error.; Factual pendency did not cure the original notice's limitation defect or authorise a fresh notice under a different transition setting.

Judicial text at SCR 615 C-D identifies AY 1946-47 and calendar year 1945 as the accounting year. The headnote instead prints 1945-47; that apparent reporter error is not adopted.

The judicial opening identifies No. 1301 (NCT) of 1971 as the special-leave appeal, replacing the ineffective certificate route in No. 1981 of 1968. Both concern the same Bombay High Court judgment. The reported appellate recital's 15 November 1956 date conflicts with its 1963 petition number and the judicial chronology; no corrected date is invented.

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. A bounded primary reading of Mahadeo Prasad Bais verified an express explanation and distinction of Jain, not overruling of its factual-pendency holding. No exhaustive later-treatment or current-applicability certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 5](#)

SHA-256: 6c4d25213e41a9e2a0a136dee1012642dc8776fa8fb7507c03679a3112d27acb

[later reported judgment bounded - PDF pages: 12](#)

SHA-256: 9e15bcd9a3df15e1d3508c11f561cf13cff09dae27332112344fb388aac8d1d

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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