

Commissioner of Income-tax, Bangalore v. C. M. Jaffar Khan (Deceased) Represented by His Widow Rahamathunnisa Begum

Civil Appeals Nos. 1306 and 1307 of 1967 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1972] 1 SCR 908 | 1971-09-24

A Mysore-law refund order constituted assessment for the 1950 transition concession; the Revenue could not reopen that income under the Indian Act.

1922 Act: 23 | 1922 Act: 34 | 1922 Act: 60-A | 1922 Act: 66(1)

2 Judges | C. A. Vaidialingam | P. Jaganmohan Reddy

Scope of this decision

Specific 1950 Mysore integration concession; no general rule that a refund prevents lawful reopening.

01 FACTS OF THE CASE

The Revenue could not use section 34 of the Indian Income-tax Act, 1922, to reopen this already assessed Mysore-law year. The assessee's partnership was assessed under the Mysore Income-tax Act, 1923, for the period ending 30 June 1949. His individual return, including the partnership share, led to a 20 March 1950 refund of ₹641-3-0 because of the applicable rate difference. Later the officer treated personal property and other-source income as escaped and assessed ₹3,21,821 for 1950-51. The Appellate Assistant Commissioner set that assessment aside; the Tribunal restored it. The Mysore High Court held the refund an assessment and rejected the Tribunal's interpretation of the transitional concession.

Source: [SCR909-911: questions, returns, refund and challenged assessment.](#)

02 DISCUSSION BY THE HON'BLE COURT

Jaganmohan Reddy J applied paragraph 5 of the Part B States (Taxation Concession) Order, 1950, made under section 60-A. Its special rule covered qualifying previous-year income already assessed under State law before the appointed date, 1 April 1950. On the undisputed facts, the individual's refund order counted as an assessment, not merely an unassessed share in the firm. Esthuri Aswathiah illustrated that an order accepting a return could constitute assessment, but its reopening outcome concerned an Indian-Act assessment and was distinguishable. Here both the firm and individual had been assessed under Mysore law. The alleged disclosure failure related to the State-law officer, not the Indian-Act officer. The Tribunal's source-by-source theory would impermissibly divide one year between two assessments: disclosed income under Mysore law and omitted income under the Indian Act. If accepted, that theory would also suggest an original section 23 assessment, not the reassessment the Revenue defended.

Source: [SCR911-915: paragraph5, Esthuri distinction and incompatible split assessment.](#)

03 JUDICIAL DECISION

The High Court's affirmative answer on the refund and negative answer on the Tribunal's construction were left undisturbed. The Indian Act was inapplicable to the protected assessment under this transition order, and section 34 supplied no reopening route on the stated facts. The Court did not hold that every refund precludes reopening under the statute that actually governs it.

Source: [SCR914B-915B: inapplicability and answers affirmed.](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's appeals dismissed; no costs because the respondents were ex parte. The impugned Indian-Act reassessment failed under the specific Mysore integration arrangements.

Source: [SCR915B: dismissal and no costs.](#)

05 AKHB REVIEW POINT

Identify the enactment under which the earlier order was made before invoking a reopening power. This decision turns on an unusual integration concession and its appointed date. Use it for statutory-transition analysis, not as a current immunity for refunded or previously assessed income; modern savings provisions need independent reading.

Source: [SCR912-914: exact transition text and assessment-law distinction.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeals Nos. 1306 and 1307 of 1967 — Supreme Court appeal or expressly printed appeal group decided in this judgment / I.T.R.C. No. 4 of 1964 — Originating High Court income-tax reference / S.C.L.A.P. No. 214 of 1966 — High Court application for leave to appeal, not a Supreme Court appeal number

SOURCE & VERIFICATION

Original reported Supreme Court judgment

8-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All 8 physical texts/images SCR908-915. SC1306/1307/1967, Mysore ITRC4/1964 and SCLAP214/1966, judgment dates 4Feb/5Oct1966 read. Full Mysore transition reasons and no-costs dismissal respondents ex-parte. Headnote 909 says Act applicable whereas judgment 914 expressly inapplicable; headnote previous-year 31Mar1949 versus actual 30June1949; s48 in question versus Tribunal narrative s18 retained. Esthuri distinction read, not conflated into blanket no-reopening rule.

Open cited source rendition

SCR 909 headnote says the Act is applicable; operative reasons SCR 914 say inapplicable, which controls. Mysore section 48 appears in the referred question; Tribunal narrative/headnote also print section 18. Both retained.

Headnote opening says previous year ending 31 March 1949; facts and reasoning concern 30 June 1949.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 23, 34, 60-A, 66(1)

No 1961 provision is adopted as an equivalent to paragraph 5 of the 1950 Part B States concession. The decision does not grant a modern refund-based reopening immunity. Any old-law proceeding requires its actual governing transition and savings rules.

The separately read 1(3) and bounded 536 savings preserve specified earlier operations, liabilities and proceedings; they do not reproduce the particular Mysore concession or its appointed-date test. Not all of 536 was reviewed, and this note does not decide a present transition dispute.

The operative historical law remains the basis of the holding. Section 1(3) commences the 2025 Act on 1 April 2026, subject to contrary provision; selected 536 savings preserve earlier operations, liabilities and proceedings. Only exact stated versions/bounds were read, not all savings, amendments, rules or applicable facts. No automatic precedent carryover.

Other provisions addressed: Mysore Income-tax Act, 1923, 48 (referred question); Part B States (Taxation Concession) Order, 1950, paragraph 5(1)-(3)

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted here; comprehensive subsequent history remains unverified.

Comprehensive subsequent history and present-law applicability are not certified.

No claim that later treatment is absent. Authorities discussed inside the primary judgment are source-field content, not later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 2025: bounded commencement and savings](#)

As amended by Finance Act 2026 1(1)-(3), lines 0-13; 536(1),(2) opening and (a)-(e), lines 24385-24408 including FA 2026 amendment footnote; 536(3)-(4), lines 24597-24601. Not whole 536. Fresh personal bounded reading of retained official web-tool text. Capture hashes identify the saved rendition, not raw official HTML/PDF bytes. No source-image or whole-Act/current-applicability certification.

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