

Commissioner of Income-tax, Kerala v. K. Srinivasan

Civil Appeal No. 1111 of 1969 / Civil Appeal No. 1415 of 1971

[1972] 2 SCR 309 | 1971-11-05

Do the words income-tax in Finance Act, 1964 section 2(2)(a) and (b), importing the preceding Finance Act's rates for the salary portion of income, include surcharge and additional surcharge although subsection (2) does not separately name them?

4 (charging-framework discussion) | 95 (historical super-tax charging section; omission noted)

Three judges | K.S. Hegde, J. | A.N. Grover, J. | H.R. Khanna, J.

Assessment years: 1964-65

Revenue wins surcharge issue; separate certificate appeal dismissed

The operative decision answers the Finance Act, 1964 salary-rate question for Revenue while dismissing the defective certificate appeal; it is not a merits dismissal of Revenue's special-leave case. The Court reserves the broader source-of-levy distinction. Madurai later distinguishes this holding where the Finance Act creates an additional surcharge on residual income despite an exemption. The old salary-rate and super-tax provisions changed, and later reliance involving sales-tax surcharge does not settle modern cess or every exemption. Original judgment PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

K. Srinivasan's main income was salary from A.V. Thomas & Co. Ltd. The judgment records salary of Rs. 42,900 in the previous year ending 30 March 1964. The Income-tax Officer imposed surcharge and additional surcharge at Finance Act, 1963 rates. The assessee challenged those additions, arguing that Finance Act, 1964 section 2(2) required only the proportionate income-tax computed at the preceding Act's rates, and did not mention surcharge (physical pages 2-3/SCR 310 F-311 B).

The Appellate Assistant Commissioner treated surcharge as another form of income-tax and rejected the challenge; the Tribunal upheld the levy. The referred question asked whether income-tax in section 2(2)(a) and (b) of the Finance Act, 1964 included surcharge and additional surcharge. The Kerala High Court answered no, in the assessee's favour. It relied on the separate nomenclature in the Finance Acts, the 1961 Act's charging sections and the constitutional provisions governing tax distribution (physical pages 3-4/SCR 311 B-312 C).

Revenue first brought Civil Appeal 1111/1969 by certificate. The Supreme Court found the certificate defective because it gave no reasons and stated that it had to be revoked. Special leave was then sought and granted, producing the merits appeal reported alongside it as Civil Appeal 1415/1971. These two procedural routes explain why the report can resolve the tax question for Revenue yet end by dismissing the certificate appeal (physical page 2/SCR 310 D-F; physical page 7/SCR 315 G-H).

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

02 DISCUSSION BY THE HON'BLE COURT

Finance Act, 1964 section 2(1) prescribed income-tax and super-tax rates and specified surcharges. Section 2(2), however, computed the salary portion for a non-company assessee proportionately by using Finance Act, 1963 rates without separately repeating the surcharge language. The earlier Act provided income-tax with surcharge, special surcharge and additional surcharge in the stipulated cases; its super-tax scheme had surcharge and special surcharge. The dispute was whether omission of those labels from the incorporating subsection excluded the additions (physical page 3/SCR 311 D-G).

Tracing constitutional and Finance Act history, the Court found that surcharge had been used either to raise the rates of income-tax and super-tax or to increase those taxes. The 1952 Finance Act incorporated the previous year's scheme without independently naming surcharge, and later Acts furnished similar examples. Under the 1971 arrangement, the operative section referred only to income-tax although the adopted and modified Schedule provided surcharge. Read in that setting, income-tax in the relevant section included the surcharges which the scheme provided (physical pages 4-6/SCR 312 D-314 A).

The Court explained the historical constitutional distinction between distribution of tax proceeds and Parliament's taxing competence. It also discussed the relationship of the 1961 Act's section 4, former section 95 and annual rate legislation. But it expressly declined to decide the larger Revenue argument that the High Court's distinction between levies under the Finance Act and under the Income-tax Act was untenable. The question it needed to decide was narrower: whether surcharge was an additional mode or rate of charging income-tax. The headnote's broader formulation cannot displace that express reservation (physical pages 6-7/SCR 314 B-315 A).

Applying the ordinary sense of an additional charge to the 1963 scheme, the Court identified the basic charge, surcharge, special surcharge and additional surcharge as its different modes or rates, calculated as the Schedule directed. The additions formed part of the income-tax and super-tax framework. This reasoning did not add every type of surcharge to every tax irrespective of the Schedule: the Court had already distinguished which additions applied to income-tax and to super-tax (physical page 3/SCR 311 E-G; physical page 7/SCR 315 A-D).

The Tribunal had attributed the preceding-year salary-rate method to avoiding refund or collection work at final assessment. The Court assigned little significance to that administrative explanation because the method had been dropped by the Finance Act, 1967. Its answer rested on the legal character and legislative setting of the additions (physical page 7/SCR 315 D-F).

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

03 JUDICIAL DECISION

The High Court's view could not stand. The referred question was answered in the affirmative and in favour of Revenue, establishing that the imported income-tax rates included surcharge and additional surcharge. That is the successful substantive result in the special-leave appeal, Civil Appeal 1415/1971. The Court separately dismissed the certificate appeal, Civil Appeal 1111/1969, following its determination that the certificate was defective. It left the parties to bear their own costs in the Supreme Court. The operative paragraph does not separately use the words appeal allowed for the special-leave appeal; its affirmative Revenue-favourable answer must be reported alongside the express certificate dismissal rather than replacing either with a blanket appeals dismissed label (physical page 2/SCR 310 D-F; physical page 7/SCR 315 G-H).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the substantive surcharge question; certificate appeal separately dismissed

Reference answered affirmatively for Revenue in the special-leave merits proceeding; defective certificate appeal dismissed; parties bear own Supreme Court costs

Substantive interpretation of Finance Act, 1964 section 2(2) and incorporated Finance Act, 1963 charges

No universal surcharge exemption or liability rule, no determination of modern cess or credit/treaty provisions, and no decision on the expressly reserved source-of-levy distinction.

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

05 AKHB REVIEW POINT

Read the annual enactment and the incorporating words before deciding whether a tax label includes a surcharge. Srinivasan prevents an omission of the word surcharge from being isolated from the scheme which the provision imports. It does not determine every charge, exemption or computational rule merely by calling surcharge income-tax.

A material limit appears in Madurai District Central Cooperative Bank (28 July 1975). The Supreme Court expressly distinguished Srinivasan's salary-rate question when construing Finance Act, 1963 provisions imposing additional surcharge on residual income despite the banking-income exemption. Parliament could create that distinct charge through the Finance Act, and the surcharge still shared income-tax's essential character. Thus the proposition that surcharge is part of income-tax does not by itself answer whether an exemption defeats a separately framed Finance Act charge (physical page 9/SCR 143 A-H; physical pages 11-13/SCR 145 A-147 G). This is a contextual distinction, not a verified overruling of Srinivasan.

Kerala State Beverages Manufacturing & Marketing Corporation (3 January 2022) expressly quoted and used Srinivasan for the proposition that surcharge enhances the underlying tax. In its particular section 40(a)(iib) setting, surcharge on Kerala sales tax retained the character of sales tax and was outside the specified fee-or-charge disallowance (paragraphs 14.3-14.5 and 16, physical pages 20-24/SCR 124-128). That application concerns sales-tax surcharge and the wording of that clause; it does not establish a general deduction for income-tax surcharge or decide modern cess treatment.

The original judgment itself records that the special salary-rate method ceased under Finance Act, 1967 and that the old super-tax charging section 95 had been omitted by Finance Act, 1965. Rates, thresholds, cess provisions, exemptions and later constitutional text require their own year-specific verification. No contemporary Finance Act or cess rule is certified here. Comprehensive later treatment, current-law applicability and any 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. 1111 of 1969

Outcome: Certificate found defective for want of reasons and to be revoked; appeal by certificate expressly dismissed

2.

Case number: Civil Appeal No. 1415 of 1971

Outcome: Special leave granted; merits resolved for Revenue by affirmative answer and rejection of High Court view; no separate appeal-allowed formula in operative text

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, both appeals and defective-certificate route

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 309 heading; 310 D-F

2.

Topic: Salary, previous-year date, departmental proceedings and reference

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: SCR 310 G-311 D

3.

Topic: Actual annual Finance Act provisions and 1961 charging context

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 311 D-312 C

4.

Topic: Historical practice and incorporated surcharge scheme

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: SCR 312 D-314 A

5.

Topic: Constitutional framework and express reservation

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: SCR 314 B-315 A

6.

Topic: Additional charges as part of tax and historical salary-method change

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: SCR 315 A-F

7.

Topic: Revenue-favourable answer, own costs, certificate dismissal and amici

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: SCR 315 G-H

8.

Topic: Express later distinction and Srinivasan assessment-year identification

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: SCR 143 A-H

Source role: later judicial treatment

9.

Topic: Residual-income charge independent of exemption; judgment confirmed

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: SCR 145 A-147 G

Source role: later judicial treatment

10.

Topic: Later express reliance in particular sales-tax-surcharge disallowance context

Source url: [Open cited source](#)

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

Paragraphs: Paragraphs 14.3-14.5 and 15-17; SCR 124-128

Source role: later judicial treatment

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

KEEP rests on substantive annual Finance Act provisions directly determining income-tax in the 1961 scheme. The controlling section is Finance Act, 1964 section 2(2), not a fabricated section 2(2) of the Income-tax Act. Sections 4 and 95 frame the discussion; the Court expressly declines to decide the broader source-of-levy distinction advanced by Revenue.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A.N. Grover, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Finance Act, 1964, section 2(2)(a)-(b), applying Finance Act, 1963 rates within the Income-tax Act, 1961 assessment scheme

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: 1976_1_135_147

Title: MADURAI DISTT. CENTRAL COOPERATIVE BANK LTD. versus THE THIRD INCOME-TAX OFFICER, MADURAI

Decision date: 1975-07-28

Classification: Expressly distinguished; statutory exemption does not answer distinct residual-income charge

Source url: [Open cited source](#)

Pdf pages: 9; 11; 12; 13

Pinpoint: SCR 143 A-H; 145-147

Holding limit: Srinivasan concerns incorporation of surcharge in salary-tax rates. Madurai separately construes Finance Act, 1963 residual-income charge and affirms its levy despite the section 81 banking-income exemption; no whole-case overruling.

Bounded check: verified only within explicit read bounds

2.

Asset id: 2022_1_105_128

Title: KERALA STATE BEVERAGES MANUFACTURING & MARKETING CORPORATION LTD. versus THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1(1)

Decision date: 2022-01-03

Classification: Expressly relied upon for surcharge as enhancement of underlying tax

Source url: [Open cited source](#)

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

Pinpoint: Paragraphs 14.3-14.5 and 16; SCR 124-128

Holding limit: Kerala sales-tax surcharge, not income-tax surcharge or education/health cess; decision on fee-or-charge language of section 40(a)(iib).

Bounded check: verified only within explicit read bounds

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Finance Act, 1964, section 2(1) and 2(2)(a)-(b); Finance Act, 1963, section 2 and First Schedule, Parts I and II; Finance Acts, 1940-1971, in the Court's historical survey; the earlier-year salary-rate procedure was dropped by Finance Act, 1967; Government of India Act, 1935, sections 137-138 (history); Constitution, Articles 245, 246(1), 268-271 and Seventh Schedule List I Entry 82 (historical wording discussed)

SOURCE & VERIFICATION

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

Identified source rendition: 7 PDF pages; SHA-256

7edf0764c4630ea3825c88306043185fb25b8624e05ecd58dc473f5bf0b01209. 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 decision date printed in the original is 5 November 1971; the report year is 1972. Catalogue identifier 1971INSC305 is not independently printed or authenticated in this rendition.

The original decision is dated 5 November 1971 but appears in the 1972 report.; The catalogue lists only CA 1111/1969; the original appellate recital also includes CA 1415/1971.; The report footer says Appeal dismissed, but the judicial text expressly confines dismissal to the certificate appeal and answers the merits reference for Revenue. The two outcomes must be kept together.; The primary records the previous-year end as 30 March 1964; the assessment-year label 1964-65 is expressly corroborated by the later Madurai judicial discussion, not separately printed in the primary facts.; The counsel recital lists S.T. Desai and S. Balakrishna for the respondent, but the judicial conclusion thanks Desai and Balakrishnan as Court-requested amici because the respondent was unrepresented. No concession or partisan submission is attributed to an absent respondent.; The headnote presents constitutional and source-of-charge discussion broadly; the Court expressly reserves the larger Income-tax Act versus Finance Act distinction.; The 1963 income-tax and super-tax additions are not identical: the text separately identifies additional surcharge for income-tax and surcharge/special surcharge for super-tax.; The salary-rate procedure and former super-tax section are historical. The ruling is not a year-independent schedule of rates or a decision about all levies called cess.; Madurai's printed SCR 143 passage has blemished and duplicated wording. Its intact judicial explanation, reasoning at SCR 145-147 and final order support the bounded distinction; the imperfect sentence is not reconstructed as a quotation.

The primary judicial facts expressly give the previous year ending 30 March 1964 and apply Finance Act, 1964 section 2(2); they do not separately print an assessment-year label. The later Supreme Court explanation in Madurai District Central Cooperative Bank at physical page 9/SCR 143 B-D expressly identifies this Srinivasan assessment as the year commencing 1 April 1964. The primary's printed 30 March date is preserved, not silently changed to 31 March.

Both concern Kerala High Court Income-tax Referred Case 32 of 1967 decided 19 September 1968. CA 1111/1969 came by a defective certificate; special leave was separately granted. The opening identifies the certificate appeal, and the conclusion expressly dismisses that appeal while answering the substantive reference for Revenue.

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 primary checks establish Madurai's express contextual distinction and Kerala State Beverages' express later reliance. They do not establish comprehensive citator coverage, an unchanged contemporary surcharge regime or any automatic cess consequence.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 7](#)

SHA-256: 7edf0764c4630ea3825c88306043185fb25b8624e05ecd58dc473f5bf0b01209

[later reported judgment bounded - PDF pages: 13](#)

SHA-256: 467baf1c9c8590c859a69f391ee5c166167214e55e10d5d6f7a0610d3476fbdd

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

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